

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

November 19, 2015

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, November 19, 2015 at 1:33 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Carol Neugent, Chair; David Dennis, Vice Chair; John Dailey; Bill Ellison; David Foster; Matt Goolsby; Joe Johnson; John McKay Jr.; Debra Miller Stevens; Bill Ramsey; Lowell Richardson; John Todd and Chuck Warren. Bob Dool was absent. Staff members present were: Dale Miller, Director; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney; Robert Parnacott, Assistant County Counselor and Maryann Crockett.

1. No prior meeting minutes to approve.

2. CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS

2-1. SUB2015-00030: Final Plat – COMMERCE DISTRICT PARKING ADDITION,
located East of Broadway, South side of Waterman.

NOTE: This unplatted site has been approved for a zone change (ZON2015-00018) from Limited Industrial (LI) to Central Business District (CBD). Public parking is proposed for the east portion of the reserves labelled 1A through 13A and Reserve A. An access easement runs north-south adjoining the public parking and continues south through the lettered reserves. Lots 1 through 13 are divided for the purposes of transferring ownership to abutting properties to the west.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water is available and sewer is available with an extension of lateral if needed.
- B. City Stormwater Management has approved the drainage plan.
- C. Traffic Engineering has approved the access controls. The plat proposes one opening along Waterman.
- D. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineers (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- E. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.

- F. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- G. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- H. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- R. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- S. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, **RAMSEY** seconded the motion, and it carried (13-0).

- 2-2. SUB2015-00032: Final Plat – COPPER GATE 3RD ADDITION**, located on the northwest corner of 13th Street North and 135th Street West.

NOTE: This is a replat of the Copper Gate Addition. The property is subject to the Community Unit Plan (DP-231).

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the extension of water (distribution) and the extension of sewer (laterals) to serve all lots being platted. In-lieu-of-assessment fees are due on sewer (mains).
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the applicant's drainage plan.
- D. Traffic Engineering has approved the access controls. The plat proposes one street opening along 13th Street North and two street openings along 135th Street West. The plat proposes a contingent rights-in/rights-out opening along 13th Street North. The plat's text states that the contingent opening is proposed for full movement openings until paving improvements occur along 13th Street North, upon which time it becomes a rights-in/rights-out opening.
- E. The Applicant shall guarantee the paving of the proposed streets. For the narrow public 32-foot streets, this guarantee shall be for the 29-foot paving standard.

- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- G. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. The Applicant needs to request a CUP adjustment to match the CUP parcel boundaries to the area being platted, to revise CUP access controls and to add residential uses as permitted uses.
- I. City Fire Department advises the turnaround must meet the minimum 38-foot paved radius requirement for cul-de-sacs over 150 feet or the current standard at the time of construction.
- J. A restrictive covenant is needed to restrict the property to residential uses.
- K. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- L. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- M. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

- R. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Westar Energy advises there is transmission near the area and comments from Transmission Engineering Department have been sent to the agent for the applicant. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- W. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, **RAMSEY** seconded the motion, and it carried (13-0).

2-3. SUB2015-00035: One-Step Final Plat – TRINITY ACADEMY 2ND ADDITION,
located south of 21st Street North, West of 127th Street East.

NOTE: This is a replat of the Trinity Academy Addition in addition to unplatted property.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water is available to serve the site. A guarantee is need for the extension of sewer (laterals) to serve all lots.

- B. The platlor's text shall include language that "No signs, light poles, private drainage systems, masonry trash enclosures or other structures shall be located within public utility easements."
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. City Stormwater Management has approved the applicant's drainage plan.
- E. Traffic Engineering has approved the access controls. The plat proposes five openings along Founders Circle.
- F. The Applicant needs to verify the location of the pipeline easement indicated in the platting binder. The easement shall be shown if encumbering this plat, or verification provided that it is off-site or has been released.
- G. County Surveying advises in the parcel 3 legal description the bearing of S04°59'44"W, fourth line from the bottom, needs corrected to S04°59'44"E.
- H. County Surveying advises in the parcel 3 legal description the bearing of N89°56'33"W, bottom line, needs corrected to N89°59'33"W.
- I. County Surveying advises the sanitary sewer easement recorded on DOC. #29392553 needs located along the north line of the proposed plat.
- J. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- K. County Surveying shall verify the location of the KGE easement is sufficient. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.

- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- S. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, **RAMSEY** seconded the motion, and it carried (13-0).

2-4. SUB2015-00039: One-Step Final Plat – ADVANCED LEARNING LIBRARY ADDITION, located on the southwest corner of 2nd Street and MacLean Boulevard.

NOTE: This is a replat of the West Wichita Addition and includes the vacation of a portion of Sycamore Street.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that Lot 1, Block 1 currently is being served by water and sewer. Lot 1, Block 2 has sewer available. Lot 1, Block 2 needs to extend water (distribution) if needed. The applicant shall meet with City Staff regarding revising the alignment of the northeast corner of Lot 1 to denote additional right-of-way for MacLean and extending the 10-foot utility easement along MacLean. In-lieu-of-assessment fees (water main) are needed for Lot 1, Block 2.
- B. Traffic Engineering has approved the access controls. The plat denotes one opening along 2nd Street North and one opening along MacLean Boulevard. Both openings align with a contingent right-of-way dedication within the property.

- C. As the plat consists of commercial lots abutting non-arterial streets, the Subdivision regulations require sidewalks along the street frontage of 2nd Street and Sycamore. A guarantee shall be submitted or a Sidewalk Certificate in lieu of a guarantee may be provided.
- D. City Stormwater Management has approved the applicant's drainage plan.
- E. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- F. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- G. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- H. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- J. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- M. Perimeter closure computations shall be submitted with the final plat tracing.

- N. Westar Energy has requested additional easements which have been denoted. Shane Price, Construction Services Supervisor, is the contact for this item and will be working with the applicant. He can be reached at 316-261-6315. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- O. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, **RAMSEY** seconded the motion, and it carried (13-0).

- 2-5. SUB2015-00040: One-Step Final Plat – TERRACE SANDS ADDITION**, located on the north side of 29th Street North, west of Hoover Road.

NOTE: This unplatted site has been approved for a zone change (ZON2015-00012) from Single-Family Residential (SF-5) to Limited Commercial (LC) with a conditional use (CON2015-10) for self-service warehouse.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that the site is currently served by water. A No Protest Agreement is requested for future extension of sanitary sewer.
- B. Depth to Groundwater appears to be less than 10 feet. The applicant shall contact City of Wichita Environmental Health to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage. A memorandum shall be obtained specifying approval. A restrictive covenant is required that prohibits non-domestic wastes on the site until public sewer is available.
- C. The plat's text shall include language that "No signs, light poles, private drainage systems, masonry trash enclosures or other structures shall be located within public utility easements."
- D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- E. City Stormwater Management has approved the applicant's drainage plan.
- F. Traffic Engineering has approved the access controls. The plat proposes two access openings along 29th Street North in conformance to the site plan.
- G. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.

- H. A landscape buffer shall be denoted on the plat.
- I. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineers (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- J. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- K. County Surveying advises the dimension on the westerly line of the drainage easement of 110.00 feet needs corrected to 90.00 feet.
- L. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- M. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- P. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- U. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, **RAMSEY** seconded the motion, and it carried (13-0).

- 2-6. SUB2015-00041: One-Step Final Plat – QUIKTRIP 21ST ADDITION**, located on the southeast corner of Harry Street and Oliver.

NOTE: This is a replat of the McGovney Addition and the McGovney Addition Replat. The site has been approved for a zone change (ZON2015-00042) from Two-Family Residential (TF-3), Multi-Family Residential (B) and Multi-Family Residential (MF-29) to Limited Commercial (LC) in addition to a Protective Overlay addressing landscaping and screening.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises water and sewer is available. Public Works and Utilities recommends extending an 8-inch water line in Glendale to serve water meters. If utilities are to be relocated, temporary easements will be necessary. "No Trespassing" and "Confined Space" signs will be required at each end of the stormwater reinforced concrete box culvert (RCBC). Grated openings may be needed in the top of the RCBC periodically to meet OSHA standards for confined space.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.

- C. City Stormwater Management has requested revisions to the applicant's drainage plan. A Conditional Letter of Map Revision application is under review by FEMA. FEMA approval will be necessary before site construction can commence. A Floodplain fill permit will be required by Division of Water Resources. The City requires the filing of a Floodplain Development Permit.
- D. The Subdivision Committee has required street improvements along Glendale to include three lanes and a parking lane extending to the south entrance. A "'Left-turn only" sign is needed on the south entrance on Glendale.
- E. Traffic Engineering has approved the access controls. The plat proposes one access opening along Oliver and complete access control along Harry.
- F. Traffic Engineering has approved a right-of-way of 60 feet along both Harry and Oliver.
- G. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay and its special conditions for development on this property.
- H. As the plat consists of a commercial lot abutting non-arterial street, the Subdivision Regulations require a sidewalk along Glendale. A sidewalk easement is needed along the west property line for the existing sidewalk, and along the north property line in the event the existing sidewalk is not included in street right-of-way.
- I. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- J. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- K. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.

- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Westar Energy advised that LaDonna Vanderford (316/261-6490) is working with the representative from QuikTrip regarding proposed easements for existing equipment. These easements will be obtained by separate easement. However the proposed size and placement is on hold and Westar will need to verify the exact location of the existing equipment and determine the size of the easements needed and placement to cover that equipment.
- S. Kansas Gas Service (KGS) has facilities within the proposed construction limits of the property. Kendall Regier (316/832-3178) is working with the Quiktrip representative on relocations for the project. The scope of KGS's relocations have not been finalized and are dependent on the final civil drawings.
- T. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MILLER STEVENS referenced an e-mail communication and asked if the agent agreed to that.

STRAHL indicated the clarification was in regards to the motion for approval of three driving lanes along Glendale and pavement signage for left turns only. He said the applicant agrees with those provisions.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

WARREN moved, **JOHNSON** seconded the motion, and it carried (13-0).

DAILEY asked for clarification on sign locations.

STRAHL said he understood the signs would be located in the street.

BRIAN LINDEBAK, MKEC ENGINEERING, INC. , 411 NORTH WEBB ROAD, AGENT FOR OWNERS/APPLICANT said they are in agreement with staff comments and indicated they will be putting any stripes required on the internal parking lot as well as along Glendale.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

WARREN moved, **JOHNSON** seconded the motion, and it carried (12-1).
MILLER STEVENS – No.

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2015-00038: City request to vacate a portion of platted Lakeway Street right-of-way, generally located south of 37th Street North and west of Hoover Road.

OWNER/AGENT: Sienna Lakes #2 LLC, C/O Jay Russell, Ruggles & Bohm, P.A., c/o Chris Bohm (agent)

LEGAL DESCRIPTION: Generally described as vacating a south portion of the platted Lakeway Street public right-of-way, located between Lot 75, Block 1, & Lot 44, Block 2, all in the Siena Lakes Addition, and ending at the abutting portion of Lakeway Street located in the Ridge Port North 4th Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located south of 37th Street North and west of Hoover Road (WCC #V)

REASON FOR REQUEST: Reduce traffic through the south abutting properties

CURRENT ZONING: The site is public street right-of-way. All abutting and adjacent properties are zoned SF-5 Single-Family Residential or TF-3 Two-Family Residential.

The owner/applicant of the Siena Lakes Addition propose to vacate the south approximately 34-25 feet of the 64-foot wide unimproved Lakeway Street public right-of-way, located between Lot 75, Block 1, & Lot 44, Block 2, all in the north, Siena Lakes Addition and ending at the abutting portion of Lakeway Street public right-of-way located in the Ridge Port North 4th Addition. The vacation request is supported by the property owners located in the south abutting Ridge Port North 4th Addition. The portion of Lakeway Street located in the Ridge Port North 4th Addition is a paved residential street that currently dead-ends, although there is a platted temporary cul-de-sac at its current termination that would cease to be upon the paving/improvements to Lakeway Street into the Siena Lakes Addition. The Siena Lakes Addition site is the only low to moderate density residential subdivision located between 37th Street North – 29th Street North – Hoover Road – Ridge Road that has TF-3 Two-Family Residential zoning. ZON2015-00026, rezoned approximately 20 lots out of approximately 119 lots

located in the Siena Lakes Addition. The TF-3 zoned properties are separated from the south abutting Ridge Port North 4th Addition by SF-5 zoned lots located along the southmost Lakeway Court. All of the properties abutting the proposed vacated right-of-way are owned by the applicant. The proposed vacation does not deny access to public streets for any abutting or adjacent properties.

However, if the vacation is approved the Siena Lakes Addition would be the only low to moderate density residential subdivision located between 37th Street North – 29th Street North – Hoover Road – Ridge Road that would have one way in and out of it, that being its platted connection to the arterial 37th Street North. In reference to the supporters of the vacation request, per the platlor's text Reserve M, Siena Lakes Addition is not a contingent dedication of street right-of-way. The described area is connected as follows:

- The west abutting SF-5 zoned Ridge Port North 5th Addition (recorded January 8, 2003) has two ways in and out of it: (a) North from the residential Ridge Port Street to the arterial 37th Street North, and; (b) The residential intersection of Brookview and Ridge Port Streets, which connects Ridge Port North 5th Addition to the south abutting Ridge Port North 4th Addition. If the vacation is approved the Ridge Port North 5th Addition would continue to provide the only access to 37th Street North for the abutting and adjacent south single-family residential development located on the north side of 29th Street North. Staff has received a phone call protesting the vacation.
- Ridge Port North 4th Addition (recorded August 8, 2001) has five ways in and out of it, but would have four if the described portion of Lakeview Street is vacated: (a) The above noted residential intersection of Brookview and Ridge Port Streets, which continues north through the Ridge Port North 5th Addition to the arterial 37th Street North; (b) The Ridge Port Street and 34th Street North residential intersection, which continues west along the north side of the Ridge Port North 3rd Addition (recorded February 13, 2001) to the 34th Street North intersection with the arterial Ridge Road. This is the only east-west connection to an arterial in the described area; (c) The intersections of the residential Hazelwood and Northwind Streets, in the Ridge Port 3rd Addition and (d) The Northwind Street and North Shore Boulevard intersection, where North Shore Boulevard continues south through the Ridge Port Addition (recorded June 8, 1998) to the arterial 29th Street North.

Besides disconnecting the Siena Lakes Addition from their neighbors there may be disruptions to the area's planned/platted circulation in regards to school buses, trash service, and similar services, making them less effective. The application to vacate is a result of the protests to the TF-3 zoning case, ZON2015-00026, from the abutting south subdivision.

The applicant has provided a proposed dedication of a 64-foot wide easement for landscaping, sidewalks, public utilities, drainage, drainage structures and emergency access with gates or bollards. If approved the easement needs to be a reserve with a restrictive covenant binding and tying the ownership and maintenance of the reserve to the Home Owners Associations located in the Ridge Port North 4th Addition. All gates and bollards located in the reserve must be constructed to Fire, Police, Emergency Service and similar agencies standards. Fire, Police, Emergency Service, utilities and similar agencies will not be liable for damage to gates or bollards as a result to their right of access. There are utilities are located in the described right-of-way. The Siena Lakes Addition was recorded with the Register of Deeds August 19, 2015.

NOTE: VAC2015-38 was advertised for the October 1, 2015 MAPC meeting and scheduled for the September 24, 2015, SD Committee meeting. The applicant requested a two-week deferral, to the October 8, 2015, SD meeting and October 15, MAPC meeting. The request was deferred a second time at the October 8, 2015, SD meeting to today's October 29, 2015 meeting. The latest deferral moved the case to the November 12, 2015, SD meeting and the November 19, 2015, MAPC meeting.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff recommends denial of the request.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time September 10, 2015, which was at least 20 days prior to this public hearing.
 2. That private rights will be injured or endangered by vacating the described platted street right-of-way and that the public will suffer loss or inconvenience thereby.
 3. The petition ought to be denied.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends denial:

However, if the MAPC approves the request, Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted Lakeway Street public right-of-way.

- (1) Dedicate a reserve for landscaping, sidewalks, all utilities, including drainage, drainage structures and emergency access with gates or bollards. All gates and bollards must be constructed to Fire, Police, Emergency Service, utilities and similar agencies standards. Fire, Police, Emergency Service, utilities and similar agencies will not be liable for damage to gates or bollards as a result to their right of access. The Home Owners Associations located in the Siena Lakes Addition will own and be responsible for maintaining the reserve. The approved original dedication must be provided to Planning prior to the case going to the City Council and subsequent recording with the Vacation Order at the Register of Deeds
- (2) Any relocation or reconstruction of all utilities made necessary by this vacation shall be the responsibility of the applicants, at the applicants' expense and shall be to City Standards. Provide any needed plans for review and approval to all utilities as needed. If needed provide a private project for relocation of utilities. The approved private project number must be provided to Planning prior to the case going to the City Council and subsequent

recording with the Vacation Order at the Register of Deeds. Approval of plans by franchised utilities must be provided to staff prior to the case going to City Council for final action.

- (3) Provide original restrictive covenant binding and tying the vacated portion of the vacated street right-of-way to the Home Owners Associations located in the Siena Lakes Addition. The restrictive covenant will also establish that the Home Owners Associations located in the Siena Lakes Addition will own and be responsible for maintaining the reserve. These must be provided to Planning prior to the case going to the City Council and subsequent recording with the Vacation Order at the Register of Deeds.
- (4) Provide Planning with a legal description of the vacated street on a Word document, via e-mail. This must be provided to Planning prior to the case going to City Council for final action.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

RAMSEY commented that the Staff Report for this item was not in the agenda packet or on line.

GOOLSBY asked if legally the Commission needs to defer the item, since the information was not in the agenda packet or available to the public on line.

MOTION: To defer the item four weeks (December 17, 2016).

JOHNSON moved, **DENNIS** seconded the motion, and it carried (13-0).

FOSTER asked for a legal opinion.

JEFF VANZANDT, ASSISTANT CITY ATTORNEY indicated that the safest thing was to defer the item since the information was not available to the Commission or the public.

WARREN asked about the Commission taking public input on the matter at this meeting since some of the public present to speak on the issue may not be able to make the next meeting.

GREG FERRIS, FERRIS CONSULTING asked the Commission to defer the item for four weeks. He indicated that the applicant, Jay Russell, understood that the item was going to be deferred anyway.

- 3-2. **VAC2015-00048: City request to vacate public street right-of-way dedicated by separate instrument**, generally located midway between Broadway Avenue and I-135, on the north side of 21st Street North and west of Mosley Avenue.

<u>APPLICANT:</u>	Triple J of Wichita, LLC, c/o Morgan Coon (applicant)
<u>LEGAL DESCRIPTION:</u>	Generally described as vacating that part of the irregular shaped, dead-end public street right-of-way dedicated by separate instrument and recorded September 1, 1982, FLM-542 PG-1540, Wichita, Sedgwick County, Kansas
<u>LOCATION:</u>	Generally located midway between Broadway Avenue and I-135, on the north side of 21st Street North and west of Mosley Avenue (WCC VI)
<u>REASON FOR REQUEST:</u>	The street has not been constructed
<u>CURRENT ZONING:</u>	All abutting and adjacent properties are zoned GI General Industrial

The applicant is requesting the vacation of the irregular shaped, dead-end public street right-of-way dedicated by separate instrument and recorded September 1, 1982, FLM-542 PG-1540. A minor street permit allows the applicant to use the right-of-way as a paved controlled access drive onto the applicant's property; vacation of the subject right-of-way will remove the minor street permit and its annual fee. The right-of-way serves only the applicant's unplatted property. Vacation of the right-of-way will not deny any properties access to public street right-of-way. The subject right-of-way runs parallel to the east side a 100-foot wide railroad right-of-way/easement. There appears to be no utilities located in the subject right-of-way.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described public street right-of-way dedicated by separate instrument.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time October 29, 2015, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described public street right-of-way dedicated by separate instrument and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Vacate the described public street right-of-way. Provide Planning with a legal description of the vacated right-of-way on a Word document, via E-mail to be used on the Vacation Order. This must be provided to Planning prior to VAC2015-00048 proceeding to City Council for final action
- (2) Provide a covenant, with original signatures, binding and tying the described vacated public street right-of-way dedicated by separate instrument to the applicant's abutting property. This must be provided to Planning prior to VAC2015-00048 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and the Sedgwick County Appraisers Office.
- (3) As needed dedicate easements by separate instruments to cover all utilities. These original dedications must be provided to Planning prior to VAC2015-00016 proceeds to City Council for final action and subsequent recording with the Register of Deeds.
- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Any relocation/reconstruction of utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number(s) to Planning prior to the case going to City Council for final action.
- (5) All improvements shall be according to City Standards and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the described public street right-of-way. Provide Planning with a legal description of the vacated right-of-way on a Word document, via E-mail to be used on the Vacation Order. This must be provided to Planning prior to VAC2015-00048 proceeding to City Council for final action
- (2) Provide a covenant, with original signatures, binding and tying the described vacated public street right-of-way dedicated by separate instrument to the applicant's abutting property. This must be provided to Planning prior to VAC2015-00048 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and the Sedgwick County Appraisers Office.

- (3) As needed dedicate easements by separate instruments to cover all utilities. These original dedications must be provided to Planning prior to VAC2015-00016 proceeds to City Council for final action and subsequent recording with the Register of Deeds.
- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Any relocation/reconstruction of utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number(s) to Planning prior to the case going to City Council for final action.
- (5) All improvements shall be according to City Standards and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

JOHNSON moved, **DENNIS** seconded the motion, and it carried (13-0).

- 3-3. **VAC2015-00049: City request to vacate a platted reserve on property**, generally located east of Amidon Avenue, north of 29th Street North, on the west side of Cromwell Drive.

<u>OWNER/APPLICANT:</u>	The public by virtue of plat dedication (owner) Kathleen K. Caldwell (applicant)
<u>LEGAL DESCRIPTION:</u>	Generally described as vacating the plat's text of the platted Reserve A, Emel Addition, Wichita, Sedgwick County, Kansas
<u>LOCATION:</u>	Generally located east of Amidon Avenue, north of 29th Street North, on the west side of Cromwell Drive (WCC V1)
<u>REASON FOR REQUEST:</u>	Assist in providing clear title of ownership to the applicant
<u>CURRENT ZONING:</u>	The site and all the abutting and the adjacent west properties are zoned SF-5 Single-Family Residential

The platted Reserve A, Emel Addition, abuts the west, back yard of the applicant's property, Lot 1, Emel Addition and east side of the Little Arkansas River. The applicant is requesting the vacation of the plat's text of the platted subject reserve. Per the plat's text, Reserve A is hereby dedicated to the public for drainage, river bank maintenance, flood control and river beautification. The ownership list

provided by the title company recognizes Reserve A as being owned by the public by virtue of the plat dedication. The Subdivision Regulations' definition of a reserve includes: "Typically future ownership and maintenance for a reserve is set forth by a restrictive covenant that provides that a homeowners or a lot association will hold title to the reserve and therefore be held responsible for the reserve's maintenance. The restrictive covenant may provide ownership and maintenance to be tied to ownership of an adjacent lot. Ownership and maintenance is not assigned to an individual, partnership, or corporation except in cases of a reserve platted for the future sales to a public body for a public facility."

No restrictive covenant(s) has been found that establishes that a homeowners association, a lot association, an adjacent lot, an individual, a partnership, or a corporation that holds title and is responsible for maintenance of the subject reserve. There is no record of a sale of the reserve to the City of Wichita or any public body. The request will eliminate that Reserve A is "dedicated to the public." A restrictive covenant binding and tying Reserve A to Lot 1 (the abutting lot), all in the Emel Addition, will aid the applicant in obtaining clear title to the subject reserve. The site is located within a Floodway. There are no utilities located in the subject reserve. The Emel Addition was recorded July 25, 1972.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the plattor's text to amend the dedication and the uses permitted in the platted reserve.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time October 29, 2015, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the plattor's text to amend the dedication and the uses permitted in the platted reserve and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Provide a restrictive covenant, with original signatures, binding and tying Reserve A, Emel Addition to Lot 1, Emel Addition. This must be provided to Planning prior to VAC2015-00049 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and separately at the Sedgwick County Appraisers Office.
- (2) Vacate the plattor's text to remove that Reserve A is dedicated to the public.

- (3) The uses allowed in Reserve A, Emel Addition will be single-family residential uses, drainage, river bank maintenance, flood control and river beautification.
- (4) As needed provide easements for utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (5) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (6) All improvements shall be according to City Standards and at the applicants' expense.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide a restrictive covenant, with original signatures, binding and tying Reserve A, Emel Addition to Lot 1, Emel Addition. This must be provided to Planning prior to VAC2015-00049 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and separately at the Sedgwick County Appraisers Office.
- (2) Vacate the plattor's text to remove that Reserve A is dedicated to the public.
- (3) The uses allowed in Reserve A, Emel Addition will be single-family residential uses, drainage, river bank maintenance, flood control and river beautification.
- (4) As needed provide easements for utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (5) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (6) All improvements shall be according to City Standards and at the applicants' expense.

- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

JOHNSON moved, **DENNIS** seconded the motion, and it carried (13-0).

- 3-4. **VAC2015-00050: City request to vacate a platted drainage and utility easement on property**, located south of Kellogg Street, on the northwest corner of Oliver Avenue and Orme Street.

OWNER/AGENT: S.J. Ram, LC, c/o Don Walenta (owner) Ruggles and Bohm, c/o Will Clevenger (agent)

LEGAL DESCRIPTION: Generally described as vacating the south 152 feet of the platted 20-foot wide drainage and utility easement centered on the common lot lines of Lots 2 and 4 and all in Block 1, all in the Ann Walenta Commercial Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located south of Kellogg Street, on the northwest corner of Oliver Avenue and Orme Street (WCC III)

REASON FOR REQUEST: Development of the site

CURRENT ZONING: The site and the abutting and the adjacent east (across Oliver Avenue) properties are zoned LC Limited Commercial and a small NR Neighborhood Retail zoned property. Abutting and adjacent west and south properties are zoned TF-3 Two-Family Residential. Kellogg Street abuts the north side of the site. The site is part of CUP DP-261.

The applicant is requesting the vacation of the south 152 feet of the platted 20-foot wide drainage and utility easement centered on the common lot lines of Lots 2 and 4, all in Block 1, all in the Ann Walenta Commercial Addition. The applicant proposes dedicating another easement to replace the vacated portion of the subject easement. There appears to be no utilities located in the subject easement. The Ann Walenta Commercial Addition was recorded July 15, 2009.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted drainage and utility easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time October 29, 2015, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portion of the platted drainage and utility easement and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Provide a legal description of the vacated portion of the platted drainage and utility easement on a Word document via E-mail for the Vacation Order. This must be provided prior to VAC2015-00050 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) As needed provide easements for utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (3) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide a legal description of the vacated portion of the platted drainage and utility easement on a Word document via E-mail for the Vacation Order. This must be provided prior to VAC2015-00050 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) As needed provide easements for utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (3) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

JOHNSON moved, **DENNIS** seconded the motion, and it carried (13-0).

- 3-5. **VAC2015-00051: County request to vacate the platlor's text to amend the uses permitted in a floodway reserve agreement on property**, generally located midway between 47th and 55th Streets South and west of Clifton Avenue.

OWNER/AGENT: Trent Hardison (owner) MKEC, c/o Gene Rath (agent)

LEGAL DESCRIPTION: Generally described as vacating a portion of a floodway reserve agreement and/or the text of the floodway reserve agreement (FILM 837/PAGE 201) located on that part of Government Lot 3 in Section 22, Township 28 South, Range 1, East of the 6th PM, lying east of the Arkansas River, except that part platted as Pineaire Mobile Home Park, Sedgwick County, Kansas

LOCATION: Generally located west of K-15, midway between 47th and 55th Streets South and west of Clifton Avenue (BoCC 5)

REASON FOR REQUEST: To allow fill dirt to be placed in it

CURRENT ZONING: The site and the abutting east and north properties are zoned SF-20 Single-Family Residential. Abutting south properties are zoned SF-5 Single-Family Residential. The Arkansas River abuts the west side of the site.

The applicant is requesting the vacation of the floodway reserve agreement to allow fill dirt to be placed in it. To clear the site for construction of a home or other buildings the site would need to be platted. The site is located in a floodway and a flood zone; the revised/updated FEMA Flood Maps will take the place of the floodway reserve agreement. There is sewer line and manholes located along the north and a north portion of the west sides of the property; easements must be provided to cover these utilities. The floodway reserve agreement was approved by the Sedgwick County Engineer and the BoCC October 8, 1986, FILM 837/PAGE 201.

Although the case is located in Sedgwick County it is also located within the City of Wichita's 3-mile ring subdivision jurisdiction. This means the Wichita City Council must consider the request and make a recommendation prior to the request going to the Sedgwick County Commission for final action.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the floodway reserve agreement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time October 29, 2015, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described floodway reserve agreement and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Sedgwick County Public Works agrees to allow fill to be placed in accordance with a State DWR fill permit. A State Stormwater NOI, a State DWR Fill permit, a County Stormwater permit and a County Floodplain Development permit will be required. A survey will be required to ensure no encroachment into the Regulatory Floodway.

- (2) Provide a legal description of the vacated floodway reserve agreement on a Word document via E-mail for the Vacation Order. This must be provided prior to VAC2015-00051 proceeding to City Council and the Board of County Commissioners for final action and subsequent recording at the Sedgwick County Register of Deeds.
- (3) Provide easements for all utilities, including the sewer line and manholes located in the floodway reserve agreement. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided, with original signatures, to Planning prior to the case going to the City Council and the Board of County Commissioners for final action.
- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council and the Board of County Commissioners for final action.
- (5) All improvements shall be according to City Standards and County Standards and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Sedgwick County Public Works agrees to allow fill to be placed in accordance with a State DWR fill permit. A State Stormwater NOI, a State DWR Fill permit, a County Stormwater permit and a County Floodplain Development permit will be required. A survey will be required to ensure no encroachment into the Regulatory Floodway.
- (2) Provide a legal description of the vacated floodway reserve agreement on a Word document via E-mail for the Vacation Order. This must be provided prior to VAC2015-00051 proceeding to City Council and the Board of County Commissioners for final action and subsequent recording at the Sedgwick County Register of Deeds.
- (3) Provide easements for all utilities, including the sewer line and manholes located in the floodway reserve agreement. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided, with original signatures, to Planning prior to the case going to the City Council and the Board of County Commissioners for final action.

- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council and the Board of County Commissioners for final action.
- (5) All improvements shall be according to City Standards and County Standards and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

FOSTER noted a typographical error in the Staff Report.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

JOHNSON moved, **DENNIS** seconded the motion, and it carried (13-0).

3-6. VAC2015-00052: City request to vacate a platted utility easement on property ,
generally located southeast of K-96 and Ridge Road.

OWNER/AGENT: Tier 1 LLC, c/o Jesse Schellenberg (owner) MKEC, c/o Brian Lindebak (agent)

LEGAL DESCRIPTION: Generally described as vacating the platted 20-foot wide utility easement that runs parallel to the north property line of Lot 1 and the north 188.71 feet of the east property line of said lot, all in Block 4, Estancia Commercial Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located southeast of K-96 and Ridge Road (WCC V)

REASON FOR REQUEST: Development of the site

CURRENT ZONING: The site is zoned GC General Commercial. Abutting south and adjacent west (across Ridge Road) properties are zoned LC Limited Commercial. Abutting east properties are being rezoned (ZON2015-00029). K-96 abuts the north side of the site. The site is part of CUP DP-337.

The applicant is requesting the vacation of the platted 20-foot wide utility easement that runs parallel to the north property line of Lot 1 and the north 188.71 feet of the east property line of said lot, all in Block 4, Estancia Commercial Addition. The platted 20-foot building setback that runs parallel to the north property line of Lot 1, Block 4, Estancia Commercial Addition will remain. There are no public utilities located in the subject reserve. Westar has utilities located in the vacation area, Heide Bryan is the Westar representative and can be contacted at 261-6554. The Estancia Commercial Addition was recorded September 28, 2015.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted utility easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time October 29, 2015, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portion of the platted utility easement and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Provide a legal description of the vacated portion of the platted utility easement on a Word document via E-mail for the Vacation Order. This must be provided prior to VAC2015-00052 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) As needed provide easements for utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (3) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.

- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide a legal description of the vacated portion of the platted utility easement on a Word document via E-mail for the Vacation Order. This must be provided prior to VAC2015-00052 proceeding to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (2) As needed provide easements for utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (3) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

JOHNSON moved, **DENNIS** seconded the motion, and it carried (13-0).

PUBLIC HEARINGS

FOSTER recused himself from the item.

4. **Case No.: ZON2015-00046 and CON2015-00034** - Welcome Home, LLC, c/o Paul Treadwell (owner) and Poe & Associates, c/o Bill Box request a City zone change for LC Limited Commercial zoning on MH Manufactured Home zoned property and City Conditional Use request for manufactured home sales on proposed LC Limited Commercial zoned property on property described as:

Commencing at the Southeast Corner of the Northeast Quarter of Section 24, Township 28 South, Range 1 West of the 6th Principal Meridian in Sedgwick County, Kansas, Thence, West along the South line of said Northeast Quarter for 50.00 feet to a point on the East line of said Lot 1, Block 1, Thence on a platted bearing of N 0°08'10" W along the East line of said Lot 1, Block 1, for 120.00 feet to the North line of a platted Drainage Easement and the Point of Beginning, Thence, S 89° 58' 42" W along the North line of said platted Drainage Easement for a distance of 124.71 feet to a point, Thence, N 00° 00' 00" E for a distance of 186.13 feet to the beginning of a tangent curve to the left having an angle of 45° 18' 45", a radius of 190.00 feet, for an arc length of 150.26 feet, Thence, N 45° 18' 45" W for a distance of 135.82 feet to the beginning of a tangent curve to the right having an angle of 45° 10' 35", a radius of 150.00 feet, for an arc length of 118.27 feet, Thence, N 00° 08' 10" W for a distance of 63.19 feet to a point, Thence, N 89° 51' 50" E for a distance of 47.94 feet to a point, Thence, S 37° 45' 05" E for a distance of 141.46 feet to a point, thence S 46° 31' 42" E a distance of 257.78 feet to a point on the East line of said Lot 1, Block 1, Thence, S 00° 08' 10" E along the East line of said Lot 1, Block 1, for a distance of 297.07 feet to the Point of Beginning. Said tract contains 1.72 acres, more or less.

BACKGROUND: The applicant is requesting a zone change from MH Manufactured Housing (MH) to LC Limited Commercial (LC) with a Conditional Use to allow outdoor vehicle and equipment sales, specifically the sale of manufactured homes. The MH zoning district does not permit the sale of outdoor vehicle and equipment sales/manufactured homes. However, outdoor vehicle and equipment sales may be permitted after consideration and approval of a Conditional Use on a site by site basis in the LC zoning district; Unified Zoning Code (UZC), Sec.III-D.6.x. The site is located midway between 47th and 55th Streets South on the west side of Meridian Avenue. The 1.98-acre site is partially developed with a 'new office' and a parking lot, as shown on the applicant's site plan. The 1.98-acre site is part of the approximately 138-acre partially developed MH zoned Southborough Estates Addition manufactured home park.

The mid-mile site is located in a portion of the south-central edge of the Wichita city limits, abutting and adjacent to properties located in Wichita, Sedgwick County and the City of Haysville. Approximately six-acre LC zoned properties are located on seven of the eight properties abutting the area's arterial intersections of 47th Street South - Meridian Avenue and 55th Street South - Meridian Avenue. Three of the seven LC zoned sites are agricultural fields, two are developed as farmsteads (built 1936, 1948), one is a warehouse-retail business (built 1985, 1997, looks like a barn and accessory building) and the last is a single-family residence with undeveloped land around it. The LC zoned single-family residence with the undeveloped LC land around it reflects two different owners. The LC zoned properties are the result of the 1958 rezoning of county properties located within the three-mile growth area of Wichita, which included Light Commercial zoning (now Limited Commercial) being located on the abutting four

corners of arterial intersections. USD Unified School District (USD) 261's public schools Campus High School and Ruth Clark Elementary School and their campuses are located approximately a quarter-mile southeast of the site. The schools are located on the northeast corner of 55th Street South and Meridian Avenue in Haysville.

A portion of the applicant's MH zoned manufacture home subdivision is located north of the site, across the paved, private Southborough road. The adjacent north property is developed with double wide manufactured homes, with pitched roofs, siding similar to what is found on a stick frame house and sitting on permanent foundations. The applicant's abutting south and west MH zoned property is currently used as agricultural fields. A developed SF-5 Single-Family Residential ("SF-5") zoned subdivision is located further north and west of the site. County zoned SF-20 Single-Family Residential ("SF-20") large tract single-family residences and agricultural fields are also located further north and west of the site. Properties located east of the site, across Meridian Avenue, include SF-20 zoned agricultural fields, a SF-5 zoned single-family residence (built 1950) and the city of Wichita's SF-5 zoned South Lakes Public Parks sports complex (outdoor playing fields). The park is the largest development in the area, with the applicant's MH zoned properties perhaps equaling the park in size.

The applicant's site plan shows the noted new office building and the paved parking with 13 parking spaces. The UZC requires one parking space per 500 square feet of building floor area, plus two spaces for the first 10,000 square feet of lot area used for sales or storage purposes, plus one space for each 10,000 square feet of lot area used for sales, display or storage purposes thereafter. The site plan does not give the size of the office, but if it is similar in size to the applicant's double wide manufactured homes (which it resembles) it's size can be calculated at approximately 1,220-square feet; 76 feet (x) 16 feet. The site plan shows a 29,070 display area. Based on the estimate of the office size and the stated size of the display area, the applicant's 13 parking spaces and one disabled parking spaces exceeds the required seven parking spaces. The site plan shows the display area surfaced with gravel. The UZC, Sec. IV-A.1.b requires new development off-street parking and loading facilities shall be provided for any new building constructed and for any new use established, in accordance with the standards of this section. The UZC, Sec. IV-A.2.b, requires all parking areas, loading areas and driveways on all developments other than low-density residential development be surfaced with concrete, asphaltic concrete, asphalt or other comparable surfacing. Gravel is not a comparable surfacing, a variance would be required to allow gravel parking. Variances are deviations from specific regulations in this Code. The site plan shows the required solid screening, but no landscaping; landscaping shall be per the UZC. The site plan shows a drive onto Meridian Avenue. The site plan does not show proposed lighting nor signs.

CASE HISTORY: From October-December, 1983, CU-263, a conditional use for a mobile home park, was considered and denied by the Haysville Planning Commission and the MAPC. The applicant withdrew the request prior to consideration and final action by the BoCC. CU-279, a conditional use for a mobile home park subject to platting, was considered and approved by the MAPC at their May 2, 1985 meeting. The BoCC denied the request at their June 19, 1985 meeting. On May 13, 1986, a District Court overturned the BoCC's denial and granted CU-279, a conditional use for a mobile home park subject to platting. On March 7, 2000, the City Council approved zoning case Z-3339, which rezoned the property the site is located on from SF-6 Single-Family Residential to MH. The site is part of the platted Lot 1, Southborough Estates Addition, which was recorded with the Register of Deeds March 13, 1989. The site was annexed into the city sometime between 1981-1990.

ADJACENT ZONING AND LAND USE:

NORTH: MH, LC	Manufactured homes, single-family residence, undeveloped land
SOUTH: MH, SF-20, LC	Agricultural fields, a warehouse-retail business
EAST: SF-5, SF-20	Single-family residence, agricultural fields, large public park
WEST: MH, SF-20, SF-5	Agricultural fields, large tract single-family residence, single-family residential subdivision

PUBLIC SERVICES: The subject property has access to Meridian Avenue, a curbed, four-lane arterial street and Southborough Street, a paved, private, two-lane residential street. Municipal water and sewer services and all other utilities are currently provided to the subject property.

CONFORMANCE TO PLANS/POLICIES: The “2030 Land Use Guide of the Comprehensive Plan” (Plan) identifies the MH zoned site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The MH zoning district is compatible with the urban residential category, but the requested LC zoning is not.

The proposed LC zoning is compatible to the “local commercial” category of the Plan. The UZC allows consideration of outdoor vehicle and equipment sales on LC zoned lots as a Conditional Use on a site by site basis. The “Commercial Locational Guidelines of the Comprehensive Plan” (commercial locational guidelines) recommends that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The site has direct access onto Meridian Avenue, a four-lane arterial. The commercial locational guidelines also recommends that outdoor vehicle and equipment sales should be guided to cluster in areas such as CBD fringe, segments of Kellogg Avenue and Broadway Avenue, or other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. If approved the conditional use would introduce a new use to the area. The closest manufactured home sales lots may be on the LC zoned southwest corner of the Seneca Street – I-235 interchange and south of the John Mack Bridge on the east side of Broadway Avenue. Both of these sites are the only manufactured home sales businesses in the areas they are located in. The manufactured home sales lot located on Broadway Avenue has auto sales lots in close proximity. The manufactured home sales lot located off of the Seneca Street – I-235 interchange abuts a manufactured home park, with other manufactured home parks located in the area. Staff is not sure if there is an obvious cluster of manufactured home sale sites in the city.

The mid-mile location of the site initially makes consideration of the requested LC zoning problematic in that there are LC zoned agricultural fields located on three of the seven corners of the area's arterial intersections of 47th Street South - Meridian Avenue and 55th Street South - Meridian Avenue. However, the site's proposed location and the abutting and adjacent current zoning makes the potential for it having a less adverse impact on the areas' current and future residential development, than the three LC agricultural fields located on the corners of arterial intersections. The mid-mile site has approximately 138-acres of partially developed MH zoning on three of its four sides, with Meridian Avenue separating it from the east adjacent SF-20 zoned agricultural field and the SF-5 zoned single-family residence and the South Lakes Public Parks sports complex. All three of the noted corner LC zoned sites have abutting SF-5 and/or SF-20 zoned properties on their interior sides. The proposed site's 1.98-acre size is smaller than the approximately six-acre LC zoned corner sites. The site's relatively small, irregular size does not allow for a large display area, which will more readily blend into the existing MH development and the future development of the applicant's MH zoned property.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be **APPROVED**, with the following conditions:

1. The site shall be replatted or be approved for a lot split within a year of approval by the governing body. Access will be determined at the time of platting.
2. The Conditional Use shall be limited to the sale of residential designed manufactured homes, as defined by the UZC. All conditions of the Unified Zoning Code, Section III-D.6.x, outdoor vehicle and equipment sales shall be in effect.
3. No repair work shall be conducted on the site. No outside storage. All equipment and materials including, but not limited to, blocks that the manufactured homes will be displayed on, display porches not being use in the display of the manufactured homes, pallets, fork lifts, etc., will be stored inside.
4. All improvements to the property must be finished before car sales is permitted, including the paving of the display area. Those improvements include a parking barrier around the display area, such as a heavy rail type, being installed along the north and east property lines of the display area where it abuts Meridian Avenue and is adjacent to the private street Southborough Street, except at driveway entrances or where fences are erected, to ensure that parked manufactured homes do not encroach onto public right-of-way, including the sidewalks. A six to eight foot wooden fence shall be erected as shown on the site plan.
5. Landscaping shall be per the Landscape Ordinance.
6. The applicant shall submit a revised site plan for review and approval by the Planning Director, within 45 days of approval by the MAPC or the City Council. The site will be developed according to the revised site plan.

7. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, searchlights, bunting and balloons. No electronic message boards. Signage will be a monument sign per the LC Limited Commercial zoning district.
8. No outdoor amplification system shall be permitted.
9. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted. Outside pole lighting shall be no taller than 14-feet, including the base, and directed onto the site and away from the residential zoning located east of the site.
10. All trash receptacles, shall have solid 6-foot screening around it. The gate shall be of similar materials as the screening.
11. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
12. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The mid-mile site is located in a portion of the south-central edge of the Wichita city limits, abutting and adjacent to properties located in Wichita, Sedgwick County and the City of Haysville. Approximately six-acre LC zoned properties are located on seven of the eight properties abutting the area's arterial intersections of 47th Street South - Meridian Avenue and 55th Street South - Meridian Avenue. Three of the seven LC zoned sites are agricultural fields, two are developed as farmsteads (built 1936, 1948), one is a warehouse-retail business (built 1985, 1997, looks like a barn and accessory building) and the last is a single-family residence with undeveloped land around it. The LC zoned single-family residence with the undeveloped LC land around it, reflects two different owners. The LC zoned properties are the result of the 1958 rezoning of county properties located within the three-mile growth area of Wichita, which included Light Commercial zoning (now Limited Commercial) being located on the abutting four corners of arterial intersections. USD Unified School District (USD) 261's public schools Campus High School and Ruth Clark Elementary School and their campuses are located approximately a quarter-mile southeast of the site. The schools are located on the northeast corner of 55th Street South and Meridian Avenue in Haysville.

A portion of the applicant's MH zoned manufacture home subdivision is located north of the site, across the paved, private Southborough road. The adjacent north property is developed with double wide manufactured homes, with pitched roofs, siding similar to what is found on a stick frame house and sitting on permanent foundations. The applicant's abutting south and west MH zoned property is currently used as agricultural fields. A developed SF-5 Single-Family Residential (SF-5) zoned subdivision is located further north and west of the site. County zoned

SF-20 Single-Family Residential (SF-20) large tract single-family residences and agricultural fields are also located further north and west of the site. Properties located east of the site, across Meridian Avenue, include SF-20 zoned agricultural fields, a SF-5 zoned single-family residence (built 1950) and the city of Wichita's SF-5 zoned South Lakes Public Parks sports complex (outdoor playing fields). The park is the largest development in the area, with the applicant's MH zoned properties perhaps equaling the park in size.

2. The suitability of the subject property for the uses to which it has been restricted: The site is part of 138-acres of partially developed MH zoned property. The property is suitable for manufactured homes development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval the conditions of the Conditional Use are intended to minimize the negative impact of manufactured home sales on the area. Approval of the LC zoning and the Conditional Use would place commercial zoning at a mid-mile location, which is not a request typically supported by staff. Approval of the Conditional Use would introduce a new use to the area, a manufactured home sales lot. However, the site abuts 138-acres of partially developed MH zoned land on three of its four sides, with the fourth side being Meridian Avenue frontage, which separates the site from SF-20 zoned agricultural fields and a SF-5 zoned single-family residence and the city of Wichita's SF-5 zoned South Lakes Public Parks sports complex. The site's relatively small size and it being surrounded by the 138-acres of partially developed MH zoned land lessen its impact.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The "2030 Land Use Guide of the Comprehensive Plan" (Plan) identifies the MH zoned site as "urban residential." The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The MH zoning district is compatible with the urban residential category, but the requested LC zoning is not.

The proposed LC zoning is compatible to the "local commercial" category of the Plan. The UZC allows consideration of outdoor vehicle and equipment sales on LC zoned lots as a Conditional Use on a site by site basis. The "Commercial Locational Guidelines of the Comprehensive Plan" (commercial locational guidelines) recommends that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The site has direct access onto Meridian Avenue, a four-lane arterial. The commercial locational guidelines also recommend that outdoor vehicle and equipment sales should be guided to cluster in areas such as CBD fringe, segments of Kellogg Avenue and Broadway Avenue, or other appropriate areas and streets where these

uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. If approved the conditional use would introduce a new use to the area. The closest manufactured home sales lots may be on the LC zoned southwest corner of the Seneca Street – I-235 interchange and south of the John Mack Bridge on the east side of Broadway Avenue. Both of these sites are the only manufactured home sales businesses in the areas they are located in. The manufactured home sales lot located on Broadway Avenue has auto sales lots in close proximity. The manufactured home sales lot located off of the Seneca Street – I-235 interchange abuts a manufactured home park, with other manufactured home parks in the area. Staff is not sure if there is an obvious cluster of manufactured home sale sites in the city.

The mid-mile location of the site initially makes consideration of the requested LC zoning problematic in that there are LC zoned agricultural fields located on three of the seven corners of the area's arterial intersections of 47th Street South - Meridian Avenue and 55th Street South - Meridian Avenue. However, the site's proposed location and the abutting and adjacent current zoning makes the potential for it having a less adverse impact on the areas' current and future residential development, then the three LC agricultural fields located on the corners of arterial intersections. The mid-mile site has approximately 138-acres of partially developed MH zoning on three of its four sides, with Meridian Avenue separating it from the east adjacent SF-20 zoned agricultural field and the SF-5 zoned single-family residence and the South Lakes Public Parks sports complex. All three of the noted corner LC zoned sites have abutting SF-5 and/or SF-20 zoned properties on their interior sides. The proposed site's 1.98-acre size is smaller than the approximately six-acre LC zoned corner sites. The site's relatively small, irregular size does not allow for a large display area, which will more readily blend into the existing MH development and the future development of the applicant's MH zoned property.

4. Impact on Community Facilities: All public facilities are available. Existing road facilities are adequate.

BILL LONGNECKER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

WARREN moved, **RAMSEY** seconded the motion, and it carried (12-0-1). **FOSTER** – Abstained.

5. Case No.: CUP2015-00039 - S.J. Ram, LLC (Don Walenta) / Ruggles & Bohm, P.A. (Will Clevenger) request a City Community Unit Plan CUP DP-261 amendment to permit a car wash on Parcel D, adjust parcel lines and increase height of light poles on property described as:

All of Lot 4 and the South 152 feet of the East 40 feet of Lot 2, Block 1, Ann Walenta Commercial Addition to the City of Wichita, Sedgwick County, Kansas

BACKGROUND: The applicant is seeking an amendment to the Oliver Retail Center Community Unit Plan (CUP) DP-261 to permit a car wash on Parcel D, increase the area of Parcel D by 6,078 square feet, increase the height of light poles located on Parcel D from 15 to 20 feet and reduce the area of Parcel B by 6,078 square feet. Parcel B is located west of Parcel D and contains the remnant segment of Dellrose Avenue. (See the attached CUP drawing.) Parcel D is currently platted as Lot 4 of the Ann Walenta Addition and is 218 feet east to west by 152 feet north to south). The applicant proposes to move the western Parcel D boundary west 40 additional feet, which will remove from Parcel B the corresponding area. The proposed new western boundary of Parcel D will match the eastern line of Dellrose Avenue right-of-way. To make the platted Lot 4 boundary match the new Parcel D configuration the western boundary of Lot 4 will need to be "boundary shifted" westward. The southern boundary of new Parcel D will need to be revised to reflect the curve radius of Dellrose Avenue.

All of the land located within DP-261 is zoned LC. Parcel D currently contains 33,002 square feet, permits a maximum building coverage of 9,901 square feet and a maximum floor area of 11,551 square feet. Building height of up to 45 feet are permitted. The site has 35-foot building setbacks located along Orme Street and South Oliver Avenue. General Provision 17 indicates that all parcels are zoned Limited commercial and shall be permitted those uses allowed by-right in the LC district. Car washes are permitted on Parcels F and G, located on the east side of Oliver south U. S. Highway 54/400. The CUP also includes a prohibition for certain uses such as: adult entertainment, nightclubs or correctional placement residences.

Parcels D and B have a platted 20-foot drainage and utility easement located along their current common parcel line (west). A sanitary sewer and utility poles are located in the drainage and utility easement. The applicant has submitted a vacation application (VAC2015-00050) to remove the drainage and utility easement.

The applicant's site plan depicts a 127-foot long car wash with an east to west orientation located just south of the center of the parcel. The western end of the car wash is proposed to be located approximately 184 feet west of the east (Oliver Street) property line and 20 feet from Dellrose Avenue. Access to the site is proposed to be from an existing drive approach on Oliver Street that is located in Parcel C, which is located north of Parcel D. A shared access easement allows traffic to travel across Parcel C to Parcel D. The car wash driveway runs south parallel to Oliver and then turns west, parallel to Orme Street to a payment kiosk. From the payment kiosk the driveway curves north and then turns east to the entrance of the car wash. Cars exit the car wash headed east and turn north to return to the entrance on Oliver Avenue. Twenty-eight parking spaces are shown to the north of the proposed car wash. Two existing drive approaches are located on Orme. The CUP depicts access control except for a 100-foot wide full turning movement access point that covers the southwest corner of Parcel D and existing Dellrose Avenue. Based upon the site plan, it does not appear that these drive approaches are to be used with this project. Access control should be reduced in width or location to eliminate overlap with the new boundary of Parcel D.

Land located to the north of Parcel D and B is part of the Oliver Retail Center CUP DP-261, is zoned LC and is subject to DP-261 development standards. Land located east, across South Oliver Street, is zoned LC and Neighborhood Retail and is developed primarily with a convenience store, car wash and strip retail and commercial uses. Land to the south is zoned Two-Family (TF-3), and developed with a public elementary school. Land to the west is zoned TF-3, and is developed with single-family residences.

The back yards of the closest single-family residences are located some 187 feet west of the subject parcel. The residential yards directly west of the payment kiosk currently have a six-foot tall fence or have vegetation along the rear of the properties. The owner of the CUP may need to install CUP screening along the west line of Parcel B (located west of the subject parcel) or of Parcel D (the subject parcel) if the existing screening is inadequate to block headlights from west-facing cars queued up at the car wash's payment kiosk.

CASE HISTORY: Community Unit Plan DP-261 was approved in 2002, and was expanded in 2008 (ZON2008-00034 and CUP2008-00024). A 2006 Planned Unit Development application for the southeast corner of U.S. Highway 54/400 was denied. The Ann Walenta Addition (SUB2009-00019) was recorded in 2009.

ADJACENT ZONING AND LAND USE:

North: LC, subject to DP-261; vacant
South: TF-3; public school
East: LC and NR; convenience store, strip retail
West: TF-3; single-family residences

PUBLIC SERVICES: The site is located in a part of town that has been served by public services for many years. Sanitary sewer runs through the application area. Water facilities are located in South Dellrose Avenue. At this location, Orme Street has 60 feet of right-of-way and has been improved with a left-turn lane at its intersection with South Oliver. South Oliver is a 90-foot wide four-lane arterial with left turn lanes. The plat depicts complete access control along Orme for the first 218 feet west of Oliver Avenue. One opening is permitted in the 100 feet west of the 218-foot distance. Driveways located in the complete access control segment should be closed or the access controls should be modified to match existing conditions.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" map depicts the site as being appropriate for "urban residential" uses. The 2030 Land Use Guide was initially adopted in 1993 and last amended in 2005. The existing CUP was approved by City Council was initially adopted in 2002 and later amended in 2008. The 2008 City Council approved CUP represents the most recent land use plan and policy for the site.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared it is recommended that the request be approved subject to the following conditions:

- A. The second sentence of General Provision 17 is amended to include the following: All parcels shall be zoned Limited Commercial zone. Parcels D, F and G shall allow car wash as a permitted use. The car wash use shall conform to UZC Sec. III-D.6.f (unless specifically modified by this plan) and shall be subject to a staff approved site plan. No drive-in or drive-through facilities shall be located within 200 feet of residential zoning on Parcels B and E. No service station and convenience stores with gas islands, and car washes shall be permitted on Parcels B and E. No Parcel within the CUP shall allow the use of adult entertainment establishments, group

residential, correctional placement residences, vehicle sales, multi-game, casino-style gambling facilities, private clubs, taverns, nightclubs, and drinking establishments. Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment.

- B. Parcel B Net Area: ~~95,580~~ 89,611 sq. ft. or ~~2.19~~ 2.06 acres
Maximum Building Coverage: ~~28,674~~ 26,883 sq. ft. or 30 percent
Maximum Gross Floor Area ~~33,453~~ 31,364 sq. ft.
- C. Parcel D Net Area: ~~33,002~~ 39,080 sq. ft. or ~~0.76~~ 0.89 acres
Maximum Building Coverage: ~~9,904~~ 11,724 sq. ft. or 30 percent
Maximum Gross Floor Area: ~~11,554~~ 13,678 sq. ft.
Add item I. Light poles shall be a maximum of 20 feet in height including base.
- D. Existing driveways to Parcel D from Orme Street shall be closed or access control vacated prior to issuance of an occupancy permit for Parcel D.
- E. Submission of four CUP's within 60 days of final approval to the Metropolitan Area Planning Department.
- F. The proposed amendments apply only to the described parcels.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land located to the north of Parcel D and B is part of the Oliver Retail Center CUP DP-261, is zoned LC and is subject to DP-261 development standards. Land located east, across South Oliver Street, is zoned LC and Neighborhood Retail and is developed primarily with a convenience store, car wash and strip retail and commercial uses. Land to the south is zoned Two-Family (TF-3), and developed with a public elementary school. Land to the west is zoned TF-3, and is developed with single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LC subject to the development standards contained in CUP DP-261. Parcel D is permitted nearly all LC uses that are permitted by right. The LC zoning district permits by right a very wide range of residential, office and commercial uses. As currently zoned, presumably the site could be put to one or more permitted uses that would generate an economic return as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The CUP already permits a car wash on two the CUP's parcels located east of Oliver Avenue. The site is located approximately 187 feet from the closest residential uses, located to the west. Ultimately there will be additional non-residential uses located west of the subject parcel.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request would provide the general public with an additional choice in car wash facilities. Denial would presumably represent a loss of economic opportunity to both the landowner and the car wash operator.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” map depicts the site as being appropriate for “urban residential” uses. The 2030 Land Use Guide was initially adopted in 1993 and last amended in 2005. The existing CUP approved by City Council was initially adopted in 2002 and later amended in 2008. The 2008 City Council approved CUP represents the most recent land use plan and policy for the site. The proposed amendment is consistent with the range of uses anticipated by the most recently adopted CUP.
6. Impact of the proposed development on community facilities: Existing facilities are in place or can be extended to serve the proposed use.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

DENNIS moved, **MCKAY** seconded the motion, and it carried (13-0).

6. Case No.: CUP2015-00041 - Ronald D. Ryan Living Trust (owner) / Paul Gray (agent) request a City Community Unit Plan CUP DP-134 amendment to increase the residential density on property described as:

Lot 2 EXCEPT beginning at the Northwest corner; thence South 305 feet; thence Southwest 164.44 feet; thence South 135.95 feet; thence East 299.99 feet to the East line; thence North 439.62 feet; thence West 10 feet; thence North 100 feet; thence West 150.51 feet to the point of beginning an EXCEPT part deeded for sidewalk, Timber Grove Lakes Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The application area is undeveloped property within Parcel 2a of DP-134, The Timber Groves Lakes Community Unit Plan (CUP), a 6.65-acre site at the northwest corner of North Maize Road and West Central Avenue. The vacant site currently has a detention water feature on the south and east side of the site, along Maize Road. The applicants wish to build three multi-family buildings, three stories each, with 24 dwelling units per building for a total of 72 dwelling units (10.87 dwelling units per acre) with no architectural restrictions (see the attached site plan). The CUP currently limits Parcel 2a to a total of 15 dwelling units, six dwelling units per building, townhouse units, two-story buildings, and requires architectural compatibility with nearby office and residential buildings using fieldstone. Therefore, the applicants request an amendment to DP-134 Parcel 2a to eliminate the stated restrictions. The application area is zoned GO General Office (GO), which permits 75 dwelling units per acre.

The application area, Parcel 2a, is the only undeveloped parcel within the CUP. Immediately north of the site is a two-story office building on the GO zoned Parcel 2. North and west of the site is the SF-5 Single-family Residential (SF-5) zoned Parcel 3, developed with the Timber Groves Lakes residential development. Parcel 3 has 45 existing residences, a mixture of single-family residences and attached duplexes. The CUP allows Parcel 3 to develop a total of 416 dwelling units, in a mixture of single and multi-family housing types, at a maximum density of 7 units per acre. Parcel 1, south of the site, is

zoned LC Limited Commercial (LC) and developed with retail, restaurant and banking uses. The CUP grants the application area cross lot access to the north to Maize, using the one access point to Maize currently used by the office building to the north and the Timber Grove Lakes residences. The CUP also grants this site cross lot access to Central to the south, across the commercially developed Parcel 1. A bridge across the detention water feature exists between the southwest corner of the application area and Parcel 1, and a drive aisle exists on the west side of the Wal-mart Neighborhood Market, connecting to Central. The CUP requires a landscape buffer between this site and Parcel 3 at a rate of 1 shade tree or equivalent per 30 linear feet. The CUP requires a masonry wall between the application area and Parcel 3, the wall is already constructed. Beyond the boundaries of DP-134, surrounding uses include an SF-5 zoned park to the north and west, an SF-5 zoned church and houses east of the CUP across Maize Road, and LC zoned commercial development south of the CUP across Central.

CASE HISTORY: The site was rezoned to GO with DP-134 in 1983 and was platted as the Timber Grove Lakes Addition in 1984. A 2008 CUP Amendment split the application area, Parcel 2a, from Parcel 2 and permitted multi-family residential development with the above stated restrictions.

ADJACENT ZONING AND LAND USE:

NORTH:	GO, SF-5	Offices, single and two-family residences, park
SOUTH:	LC	Commercial development
EAST:	SF-5	Church, single-family residences
WEST:	SF-5	Single and two-family residences, park

PUBLIC SERVICES: The CUP grants this site cross lot access to Maize and Central. Maize is a four-lane arterial with a 110-foot right of way (ROW) at the access point and a southbound right turn decel lane. This portion of Maize has a traffic count of 21,505 vehicles per day. Central is a five-lane arterial with a 124-foot ROW at the access point; this portion of Central has both east and west bound accel/decel lanes. This portion of Central has a traffic count of 13,449 vehicles per day. Per the City Traffic Engineer, the proposed multi-family development would generate 6.59 vehicle trips per day per unit, for a total of 474 daily trips. The City Traffic Engineer recommends requiring this development to maintain cross lot access to Central to the south, reducing the impact on the Maize access point. Sidewalks are available on both adjacent Maize and Central, the site is on the West Central transit bus route. All typical urban services are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The UZC and Comprehensive Plan consider residential development less intense than commercial development. The Comprehensive Plan locational guidelines consider this request “high density” residential development as it exceeds 10 units per acre. The Comprehensive Plan Residential Locational Guidelines recommend that medium and high density residential uses locate within walking distance of neighborhood commercial centers, parks, schools and public transportation routes. The Comprehensive Plan also recommends close proximity to concentrations of employment, major thoroughfares and utility trunk lines. They should be directly accessible to arterial or collector streets, in order to avoid high traffic volumes in lower density

residential neighborhoods. And, they should be sited where they will not overload or create congestion in existing and planned facilities/utilities.

RECOMMENDATION: The applicant's request is to increase the permitted residential density on this vacant CUP parcel, and to eliminate other development restrictions. Planning staff notes that peak hour traffic from this development could be a concern, and recommends that the CUP amendment require a connection to Central through the commercial development drive aisle to the south. Several residential neighbors from Timber Grove Lakes contacted staff opposed to this request. Opposition appears primarily against the three-story building request, visual compatibility, the total number of units and associated traffic, noise, trash and light. Staff feels that the CUP's existing architectural compatibility requirement with fieldstone, along with the existing landscape buffer requirement and screening wall should mitigate the visual concerns. The UZC limits light pole height to 15 feet when within 200 feet of residential zoning, and requires cut-off luminaries to minimize light trespass and glare. The UZC also requires trash receptacle screening. Therefore, staff feels that the potential impacts generated by this request can be mitigated with existing CUP and code requirements along with staff recommended conditions.

Based upon the information available prior to the public hearings, planning staff recommends that the request for an amendment to DP-134 2a to remove CUP architectural compatibility with fieldstone be **DENIED**. Planning staff further recommends that the request to increase multi-family units to 72, to increase the number of units in a building to 24, to increase the number of building stories to three, and to allow apartment buildings be **APPROVED** subject to the following conditions:

- (1) The CUP shall be amended to require multi-family residential development on Parcel 2a to maintain cross lot access to both Parcel 1 and Parcel 2. The applicant shall construct access improvements from Parcel 2a to Parcel 1 prior to obtaining residential building permits.
- (2) The applicant shall submit a site plan demonstrating access from Parcel 2a to Parcel 1, to be approved by planning staff and the City Traffic Engineer.
- (3) The applicant shall submit building elevations, to be approved by planning staff, demonstrating architectural compatibility per the CUP requirements.
- (4) The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days of approval or the request shall be considered denied and closed.
- (5) If the Zoning Administrator finds that there is a violation of any of the conditions of the CUP amendment, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the CUP amendment null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The application area, Parcel 2a, is the only un-developed parcel within the CUP. Immediately north of the site is a two-story office building on the GO zoned Parcel 2. North and west of the site is the SF-5 zoned Parcel 3, developed with the Timber Groves Lakes residential development. Parcel 3 has 45 existing residences, a mixture of single-family residences and attached duplexes. Parcel 1, south of the site, is zoned LC and

developed with retail, restaurant and banking uses. Beyond the boundaries of DP-134, surrounding uses include an SF-5 zoned park to the north and west, an SF-5 zoned church and houses east of the CUP across Maize Road, and LC zoned commercial development south of the CUP across Central.

- (2) The suitability of the subject property for the uses to which it has been restricted: The site is zoned GO with DP-134 use restrictions and development standards, and could be developed for a number of uses under those restrictions. However, the site has been vacant as zoned for GO since 1984, and has been vacant with the 15-unit multi-family restrictions since 2008.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed amendment would increase the total number of dwellings permitted on the site, and would increase the permitted number of building floors from two to three. The proposed development could impact adjacent residences with increased traffic, noise, and visual changes. These impacts should be mitigated by the existing screening wall, CUP requirements for a landscape buffer and architectural compatibility, and UZC light and screening compatibility requirements.
- (4) Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will add housing at an urban infill location with existing infrastructure, utilities, nearby park and commercial amenities. Vehicle traffic from the site could negatively impact access to the arterial street network, particularly if only one access point is made available. Denial of this request would presumably be a loss of economic opportunity for the landowner or developer.
- (5) Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The UZC and Comprehensive Plan consider residential development less intense than commercial development. The Comprehensive Plan locational guidelines consider this request “high density” residential development as it exceeds 10 units per acre. The Comprehensive Plan Residential Locational Guidelines recommend that medium and high density residential uses locate within walking distance of neighborhood commercial centers, parks, schools and public transportation routes. The Comprehensive Plan also recommends close proximity to concentrations of employment, major thoroughfares and utility trunk lines. They should be directly accessible to arterial or collector streets, in order to avoid high traffic volumes in lower density residential neighborhoods. And, they should be sited where they will not overload or create congestion in existing and planned facilities/utilities.
- (6) Impact of the proposed development on community facilities: The requested CUP amendment could negatively impact access to the arterial street network. The proposed cross lot access requirement to both Maize and Central should mitigate that concern.

JESS MCNEELY, Planning Staff presented the Staff Report. He indicated that numerous neighbors who are opposed to this request from the Timber Grove Lakes neighborhood have been in contact with staff. He said they expressed concerns about drainage. He said City Stormwater staff has confirmed that although the site is platted and has the existing floodway channel on it, development of anything

over one acre with an impervious surface will require additional detention. He said traffic is also a concern and added that 72 units could generate over 400 trips per day from the site. He said this portion of Maize supports over 21,000 vehicles per day so the Traffic Engineer recommended that there be improved cross lot access to both Central Avenue and Maize Road so there will be two ways in and out of the complex. He said as far as visual concerns of the neighbors, the existing fence is not at least six feet tall as required by Code so that could be addressed. In addition, he said the neighbors are opposed to anything other than what was approved in 2008 which were two-story townhouses. He said the neighbors feel three-story apartment buildings is a significant jump from what was requested previously.

JOHNSON asked about the DAB recommendation.

MCNEELY indicated that DAB will not hear the case until December 7, 2015.

RICHARDSON asked what was the reason the DAB will not hear the case until then.

MCNEELY said it was a scheduling issue and said staff does not hold up cases from going to the Planning Commission so that DAB can hear them first.

RICHARDSON asked if the Commission could defer the case until after the DAB hearing.

MCNEELY indicated yes, if that was the wish of the Commission.

RICHARDSON clarified that the site plan will have more than one acre of impervious surface, but no detention is shown on the drawing attached to the Staff Report.

MCNEELY said the required detention was a development standard.

RICHARDSON said he preferred that the DAB hear the case first.

MOTION: To defer hearing the case until after the DAB hearing.

RICHARDSON moved, **ELLISON** seconded the motion.

DENNIS commented that there were a whole lot of people in the audience, and he felt the Commission should hold the public hearing on the case. He said they would be forcing the public to come back again. He said he wanted to hear what the audience had to say.

RICHARDSON said this was forcing the Commission to make a decision before the DAB ways in on the issue.

CHAIR NEUGENT asked legal counsel if the Commission deferred the application, could they still take public comment.

VANZANDT said if the case was deferred, the Commission couldn't take public comment. He said the Commission could hear the public comment and then defer the case.

The **MOTION** to defer was withdrawn, with permission of the second.

MCKAY asked if the Commission took public comment today, would they have an additional public hearing after the DAB meeting.

VANZANDT said staff would encourage people that if they spoke today, not to get up and say the same thing when it comes back to the Commission.

CHAIR NEUGENT commented the last time the Commission had a similar case, they reheard the entire case.

VANZANDT indicated there had been a time lag on the previous case, plus there were new Commissioners who had not heard the case the first time.

WARREN said if changes are going to be made to the application at DAB, then the Commission needs to wait to hold the public hearing until after the DAB meeting.

MOTION: To defer the case until December 17, 2015.

WARREN moved, **RICHARDSON** seconded the motion.

DIRECTOR MILLER clarified that the issue about DAB meetings comes up all the time. He said all of the DAB's, with the exception of one, meet once a month. He said the Planning Department has "closing dates" for Planning Commission meetings twice a month. He said there can be as many as ten days to two weeks between when the DAB can meet and when the Planning Commission meets. He said current policy is not to delay cases going to the Planning Commission just to be heard by the DAB.

DAILEY said he liked the policy of not holding developers up.

DENNIS said they have run into this situation quite frequently as a Board and although it is an inconvenience for the Commission to hear a case twice, he feels it is more of an inconvenience to the public not to have an opportunity to speak, so he will not be supporting the motion to defer.

MCKAY asked what the applicant thought about deferring the item.

PAUL GRAY, 1861 NORTH ROCK ROAD, SUITE #200, APPLICANT said they are present at the pleasure of the Commission and would be happy to postpone the item until a later date.

The **MOTION** to defer the item carried (9-4). **DENNIS, FOSTER, MILLER STEVENS** and **TODD** – No.

CHAIR NEUGENT said the Commission wanted to be clear on what action they are taking. She said they are not taking public input but are deferring the item until the December 17, 2015 Planning Commission Hearing.

MIKE HILL, 909 NORTH MAIZE ROAD, #720 said he wanted to make sure the neighbors knew what was going on. He clarified that the item would be heard by the DAB on December 7, and that they could express their feelings at that meeting. He said the DAB findings will then be provided to the Planning Commission. He asked if the neighbors would be allowed to speak at the next Planning Commission meeting.

CHAIR NEUGENT clarified that the public hearing on the item will be held by the Planning Commission on Thursday, December 17, 2015 and the neighbors will be allowed to give testimony at that meeting.

DIRECTOR MILLER explained that because the Commission deferred the item to a date specific, there would not be new individual notices to surrounding property owners. He said it would be up to the neighbors present to communicate that information to anyone who was not at today's meeting.

7. **Case No.: PUD2015-00005** - City of Wichita, Wichita Ice Center (Applicant/Owner); and Ferris Consulting, c/o Greg Ferris (Agent) request a City zone change to a PUD Planned Unit Development for the Wichita Ice Center on property described as:

Lot 1, Block A, Wichita Ice Center Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicants propose replacing the existing GC General Commercial (GC) zoning on this platted property with the proposed PUD #48 Wichita Ice Center Planned Unit Development (PUD), see the attached PUD document. According to the Unified Zoning Code (UZC), a PUD is intended to:

- (1) Reduce or eliminate the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
- (2) Allow greater freedom in selecting the means to provide access, light, open space and design amenities;
- (3) Promote quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and
- (4) Allow deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code.

The applicant's 5.7-acre site is developed with the Wichita Ice Center building and associated parking, the applicants do not anticipate any additional development on the site or changes in use. The requested PUD would allow all uses permitted under the GC zoning district, except for Adult Entertainment, Vehicle Sales, Vehicle Repair and Night Clubs. All uses would be subject to the development standards of the GC zoning district.

The applicants propose signage that differs from the Sign Code under GC zoning and differs from the Delano Neighborhood Design Guidelines. Those differences are detailed below:

Pole Signs:

Permitted under GC zoning:

Sycamore (local street) frontage - 4 signs, 50 square feet per sign, 295 square feet cumulative sign area, 25 foot-height.

Maple (arterial) frontage - 3 signs, 300 square feet per sign, 370 square feet cumulative sign area, 25-foot height.

Kellogg Expressway frontage - 3 signs, 300 square feet per sign, 370 square feet cumulative sign area, 25-foot height.

*Kellogg is elevated at this location, the Sign Code would allow an administrative adjustment to increase sign height to 20 feet above the elevated highway rail.

Delano Neighborhood Design Guidelines: 32 square feet per sign, 16-foot height, no flashing or moving signs.

Proposed under PUD #48:

Sycamore (local street) frontage - 4 signs, 200 square feet per sign, 425 square feet cumulative sign area, 25-foot height.

Maple (arterial) frontage - 3 signs, 300 square feet per sign, 370 square feet cumulative sign area, 35-foot height.

Kellogg Expressway frontage - 3 signs, 475 square feet per sign, 475 square feet cumulative sign area, 55-foot height for one sign.

Building Signs:

Permitted under GC zoning: 20% of building elevation.

Delano Neighborhood Design Guidelines: no additional size restrictions.

Proposed under PUD #48: 40% of building elevation, no sign to exceed 400 square feet.

Proposed building setbacks are 20 feet for the Maple and Sycamore frontages, with no rear or interior side setback required, consistent with code requirements in GC zoning. Proposed building height is 50 feet, the existing GC zoning would permit 80-foot building heights. Proposed building coverage is 30% with a 35 % floor-area-ratio Parking is to be provided per the code. Proposed landscaping is per City Code, with the existing landscaping considered meeting this requirement.

The application area is located in the southeast corner of the Delano Neighborhood. The site is located within the boundaries of the Delano Neighborhood Plan (adopted in 2001) and the Project Downtown Plan (adopted in 2010). North of the application area is the GC and LC Limited Commercial (LC) zoned Lawrence-Dumont baseball field and associated parking. South of the site is the elevated Kellogg Expressway. East of the site is an LC zoned hotel/apartment development. West of the site, across Sycamore, are single-family residences in a mixture of SF-5 Single-family Residential (SF-5), TF-3 Two-family Residential (TF-3), and MF-18 Multi-family Residential (MF-18) zoning. Also west of the site, at the southwest corner of Sycamore and Maple is a GC zoned commercial building.

CASE HISTORY: The property was re-platted as the Wichita Ice Center Addition in 2013. The property was re-zoned from LC and B Multi-family Residential (B) to GC in 2012. The Wichita Ice Center building was built in 1996.

ADJACENT ZONING AND LAND USE:

NORTH:	GC, LC	Baseball stadium, parking
SOUTH:	none	Kellogg Expressway
EAST:	LC	Hotel/apartment development
WEST:	GC, SF-5, TF-3, MF-18	Warehousing, single-family residences

PUBLIC SERVICES: The site has frontage along the elevated Kellogg Expressway with platted complete access control. The site has access to Maple Street, a five lane arterial with an 80-foot right of way (ROW). The site also has access to Sycamore Street, a three lane local street with a 60-foot ROW. All other utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Wichita-Sedgwick County Comprehensive Plan identifies this site and the adjacent baseball stadium as appropriate for “Major Institutional” uses. The Major Institutional category includes institutional facilities of a significant size and scale of operation and could include a range of such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities. The application area is within the Delano Neighborhood Overlay District, subject to the Delano Neighborhood Design Guidelines and therefore reviewed by the Delano Advisory Committee.

RECOMMENDATION: This request went before the Delano Advisory Committee on November 9th where it was approved 5-0. The committee discussed signage height and size, and “V” shaped signage screening of structural elements. Planning Staff notes that the proposed use is permitted under the existing GC zoning. The applicant’s proposed PUD will better unify development on the site than what would be permitted under GC zoning. Staff recommends several conditions to make the PUD consistent with the Zoning Code intent for a PUD and the Delano Design Guidelines. Based on information available prior to the public hearing, staff recommends the request be **APPROVED** subject to the following conditions:

- A. Amend General Provision #5B to add screening to the backside of “V” shaped signs.
- B. Amend General Provision #5C to limit sign rights to 295 square feet and individual sign size to 50 square feet along Sycamore.
- C. Amend General Provision #5D to add “sign spacing shall follow sign code.”

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The application area is located in the southeast corner of the Delano Neighborhood. The site is located within the boundaries of the Delano Neighborhood Plan and the Project Downtown Plan. North of the application area is the GC and LC zoned Lawrence-Dumont baseball field and associated parking. South of the site is the elevated Kellogg Expressway. East of the site is an LC zoned hotel/apartment development. West of the site, across Sycamore, are single-family residences in a mixture of SF-5, TF-3, and MF-18 zoning. Also west of the site, at the southwest corner of Sycamore and Maple is a GC zoned commercial building.

- (2) The suitability of the subject property for the uses to which it has been restricted: The site could be developed as currently zoned with the existing Ice Center and signage. The proposed PUD increases sign flexibility on the site.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed PUD signage along Kellogg will be visible from nearby properties, as any Kellogg frontage signage will be visible from nearby properties. Screening provisions should reduce the impact on surrounding properties.
- (4) Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The 2030 Wichita Functional Land Use Guide of the Wichita-Sedgwick County Comprehensive Plan identifies this site as appropriate for “Major Institutional” uses. The Major Institutional category includes institutional facilities of a significant size and scale of operation and could include a range of such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities. The application area is within the Delano Neighborhood Overlay District, subject to the Delano Neighborhood Design Guidelines and therefore reviewed by the Delano Advisory Committee.
- (5) Impact of the proposed development on community facilities: The proposed PUD will have no additional impact on community facilities beyond the existing development.

JESS MCNEELY, Planning Staff presented the Staff Report. He referred to a hand out which amended the original staff recommendation to remove language prohibiting moving or flashing signs.

DAILEY clarified that the Delano Committee recommendation was just for this PUD.

MCNEELY said that was correct and added that under the Design Guidelines the Committee reviews development within the Delano Overlay.

FOSTER asked about doubling the allowances for sign areas. He asked if the full movement LED sign was only along Kellogg because the Staff Report didn’t state that.

MCNEELY agreed that the PUD does not specifically state where the full movement LED signs can be located on the site. He suggested the Commission address that with the applicant.

FOSTER said he felt it would be appropriate to keep the full movement LED sign along Kellogg only.

GREG FERRIS, REPRESENTING GENESIS HEALTH CLUBS WHO IS THE OPERATOR OF THE WICHITA ICE CENTER said they have been working with the Park, Legal and Property Management Departments of the City as well as other departments to try to improve attendance at the Ice Center. He said when Genesis took over the operation the center was barely making it. However, since their investment usage and attendance has greatly increased. He said that has “flattened out” over the last year to year and a half. He said they are discovering that a lot of people don’t know the Ice Center is there. He said they began exploring signage options along Kellogg and the movable LED signs would describe different programs such as junior hockey, ice skating lessons, etc. He said with 100,000 cars traveling along Kellogg, it would be a great opportunity. He said this would be an “on

site” sign with no advertising of off premises businesses; it would strictly be used for ice rink business. He said they also believe this will be a big plus for the City. He said because of the frontage they have along Kellogg, they discovered they would be allowed a 300 square foot sign; however, they felt maybe a little larger sign was needed because it would need to be above the highway and also because of the speed of the traffic. He said that is why they are pursuing a PUD. He said if the Commission wants to include the proviso that the only full motion LED sign is along Kellogg, they have no issue with that because that was always their intent. He said Genesis is investing probably over a quarter of a million dollars in the sign and they wanted to insure they would have full usage of the video. He concluded by stating that they concur with the Staff Report as amended.

WARREN asked how bright the sign could be because he didn’t want to create a safety hazard.

FERRIS answered that there was a dimming requirement in the Sign Code. He said when they apply for a sign permit, they have to be able to show that the sign has automatic dimming capabilities.

ELLISON clarified that the sign will have changing messages. He also asked about removing the tree line behind the property.

FERRIS said yes, the sign will have changing videos. He said they may have to trim a couple of the trees he was not sure but they will not be removing any trees. He added that they can’t do anything without the permission of the Park Department, and said he did not think the Park Department would allow them to take out trees. He said this is still City property so anything they want to do has to be approved by the Law and Park Departments. He said this will give them the right to apply for a sign permit, not build the sign. He said they still have to run it back through the Law and Park Departments and the City will have to sign the application.

RICHARDSON clarified that the height of the sign will be 20 feet above the roadway.

FERRIS said he believed it will be 21½ feet above the roadway.

RICHARDSON commented that the Sign Ordinance sets 20 feet above the roadway as the maximum.

DAILEY asked if anyone from Traffic Engineering was present. He said he was wondering if it was appropriate to have a moving sign along Kellogg. He asked if it would divert driver’s attention.

FERRIS responded that there has been extensive research and study on whether full motion video signs have an impact on traffic. He said there has never been a case where someone has been able to show that a sign was the reason for an accident. He said there are currently 6-8 full motion video signs on Kellogg today.

MOTION: To approve subject to staff recommendation as amended and the LED motion sign be allowed along Kellogg only.

WARREN moved, **JOHNSON** seconded the motion, and it carried (13-0).

8. **Case No.: DER2015-00001** - Return of the Community Investments Plan 2015-2035 to the MAPC by the Sedgwick County Board of Commissioners and the Wichita City Council for further consideration.

Background: In 2012, the City of Wichita and Sedgwick County jointly appointed a Plan Steering Committee to develop the Community Investments Plan to replace the current joint City and County Comprehensive Plan which dates back to 1993. A more current plan is needed to provide a policy framework and set priorities to guide future public investments out to the year 2035 in municipal buildings and infrastructure (e.g. libraries, public safety buildings, streets, bridges, parks, water supply, sanitary and storm sewer, culture, and recreation, etc.).

During 2013 and 2014, the Steering Committee developed and evaluated three possible long-term growth scenarios for Wichita. Following an extensive community engagement process in the spring and summer of 2014, a preferred growth scenario was selected by the Committee to serve as the basis for the development of the new comprehensive plan.

In March 2015, the Plan Steering Committee released the draft *Community Investments Plan 2015-2035* for public review and feedback. The Planning Department organized four public open house events and provided over 40 presentations (April through June) to over 700 people on the draft Plan. Feedback was also received through the *Activate Wichita* website. The Steering Committee met on June 24, 2015 to finalize changes to the draft Plan based upon feedback received from the community engagement process and two workshops with the Wichita City Council in April and June. In late June and early July, staff briefed the members of the Sedgwick County Board of Commissioners on the contents of the draft Plan.

On July 16th, the Advance Plans Committee passed a motion recommending that the MAPC set a public hearing date to consider the proposed adoption of the final draft *Community Investments Plan 2015-2035* as the new Comprehensive Plan for Wichita-Sedgwick County. In early August 2015, staff presented the final draft of the Community Investments Plan to the six District Advisory Boards (DAB's) for the City of Wichita. All six DAB's voted unanimously to recommend that the Plan be adopted as the new comprehensive plan for Wichita and Sedgwick County.

At the public hearing held on August 20, 2015, the MAPC unanimously approved a resolution adopting the Community Investments Plan 2015-2035 as the new Comprehensive Plan for Wichita-Sedgwick County. Existing adopted neighborhood and area plans were also adopted as elements of the new Plan. The Plan does not take effect until it is approved by the governing bodies of the City of Wichita and Sedgwick County.

On October 6, 2015, the City Council considered a recommendation to approve the *Community Investments Plan 2015-2035*. Council passed a motion to defer action on the Plan until the November 10, 2015 Council meeting in order to see what action the County Commissioners take on the Plan at the November 4, 2015 County Commission meeting.

On November 4, 2015, the County Commissioners passed a motion (3-2) to return the Plan to the MAPC with a list of recommended Plan changes. Given this action by the County Commissioners, the Wichita City Council passed a motion (5-0) at the November 10, 2015 Council meeting to return the

Plan to the MAPC for further consideration of the Plan changes recommended by the County Commissioners, but with the recommendation that the Plan stay as originally adopted by the MAPC on August 20, 2015.

On November 12, 2015, the Advance Plans Committee met to consider the merits and appropriateness of the County Commission and the Wichita City Council recommended changes to the Plan. The Committee has submitted for consideration by the MAPC, a recommended action/response (see Recommended Action) to the Plan changes as recommended by the governing bodies.

Members of the Wichita-Sedgwick County Plan Steering Committee who are not members of the MAPC have been invited to attend the November 19th MAPC meeting and may be given the opportunity to provide comment and perspective on this matter if so desired by the MAPC.

Analysis: The MAPC has an obligation to consider the merits and appropriateness of the recommended Plan changes as submitted to the MAPC by the County Commissioners on November 4, 2015. In accordance with procedures set forth in KSA 12-747(b), the MAPC has at its November 19th meeting, essentially two actions it can take:

1. Resubmit to the Sedgwick County Board of Commissioners and the Wichita City Council, the *Community Investments Plan 2015-2035* adopted by the MAPC on August 20, 2015, with a recommendation to approve the Plan as originally submitted and stating the reasons therefore.
2. Submit to the Sedgwick County Board of Commissioners and the Wichita City Council, the *Community Investments Plan 2015-2035* adopted by the MAPC on August 20, 2015, with a recommendation to approve the Plan with amendments (to include new and amended elements that may or may not reflect all or portions of the Plan changes recommended by the County and/or City).

KSA 12-747(b) also states that if a planning commission fails to deliver its recommendations to the governing body following the planning commission's next regular meeting after receipt of the governing body's report (and placed on the planning commission meeting agenda), the governing body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendations and proceed accordingly.

Recommended Action (Advance Plans Committee):

The recommended action of the Advance Plans Committee is outlined in Attachment #4.

Attachments:

1. Final Draft *Community Investments Plan 2015-2035* approved by the MAPC on August 20, 2015. This link will provide electronic access to the Plan document:
<http://www.wichita.gov/Government/Departments/Planning/PlanningDocument/09%20Final%20Plan-MAPC%20Adopted.pdf>
2. Sedgwick County Commissioners Recommended Plan Changes, November 4, 2015

SCOTT KNEBEL, Planning Staff presented the Staff Report. He summarized action regarding the Plan to date and reviewed a PowerPoint presentation as follows:

Plan Approval Process

- On 20 August 2015, MAPC unanimously adopted the *Community Investments Plan 2015-2035* as the new Wichita-Sedgwick County Comprehensive Plan
- MAPC recommended that the City Council and the County Commission approve the Plan
- Under KSA 12-747(b), the governing body (City & County) must approve the Plan for it to become effective
- *October 6, 2015* – City Council deferred action on the Plan to the November 10th Council meeting to wait on County response to Plan
- *November 4, 2015* – County Commission returned the Plan to the MAPC with a list of recommended changes for consideration
- *November 10, 2015* – City Council returned the Plan to the MAPC with a recommendation to leave the Plan as is

- KSA 12-747(b) provides City Council and County Commission with three options:
 1. Approve the Plan as recommended by the MAPC
 2. Override & change the recommended Plan by a 2/3 majority vote
 3. Return the Plan to the MAPC for further consideration with a statement specifying the basis for failure to approve or disapprove

Summary of County Commission Recommendations to MAPC (11-04-15)

- Add reference to maintaining existing local County one-cent sales tax distribution formula (add to pgs. 3 & 39), which is used to fund road and bridge projects and to reduce property tax mill levy, recommending that the tax and distribution be kept among the jurisdictions as is
- Clarify that the purpose of the Plan is to enable joint subdivision regulations (pg. 3). He said the Plan stated other purposes that were recommended for removal
- Clarify that future land use policies must be market-driven growth and that individual property rights are paramount in the decision making process (pg. 17)
- Consider privatizing the City's transit system ... operate it only with existing funding (pg. 33) ... change transit funding to 'low' priority
- Increase new bypasses to a 'medium' priority, and freeway enhancements from "medium priority" to 'medium-high' priority (pg. 30)
- Fund additional road maintenance but without any tax increases (pg. 30)
- Eliminate the strategy to implement Wichita's Bike and Pedestrian Master Plans. He said it was further clarified that bicycle and pedestrian infrastructure should be limited to recreation and not a transportation function (pg.31)
- Eliminate the strategy to develop a community-wide broadband infrastructure plan (pg. 31)
- Eliminate the strategy for a built environment strategic plan which would deal with urban forests, street trees and other types of community aesthetic and ecological investments (pg. 33)
- Eliminate the strategy to develop a joint City/County integrated cultural arts facilities investment plan (pg. 33)

Summary of City Council Recommendations to MAPC (11-10-15)

- To give further consideration of Plan changes recommended by the County Commissioners on 11-04-15, with the Wichita City Council recommending that the Plan stay as originally adopted by the MAPC on August 20, 2015

Advance Plans Committee Recommendations (11-12-15) to MAPC Regarding Plan Changes

- Pg. 17 – add reference to protecting individual property rights in Introduction
- Pg. 29 – add new Strategy C. that emphasizes retaining the existing one-cent County sales tax under Funding and Financing Goal 2
- Pg. 30 – add that opportunities for alternate, innovative transit solutions must be pursued under Plan Context and Perspective
- Pg. 30 – reverse the listing order of Wichita’s transportation priorities under Plan Context and Perspective noting that the City and County have different priorities when it comes to transportation
- Pg. 30 – add a new listing of transportation priorities for Sedgwick County under Plan Context and Perspective
- Pg. 31 – eliminate ‘public’ in reference to transit in Strategy B of Goal 2
- Pg. 33 – minor wording changes for placement of the word ‘premier’ in Goal 1 statement
- Pg. 33 – suggested deleting the reference to the establishment of a task force in Strategy G (agri-tourism)

Plan Approval Process

KSA 12-747(b) provides MAPC with essentially two options:

1. Resubmit to the governing bodies, the Plan adopted by MAPC on August 20, 2015 with a recommendation to **approve as originally submitted**, and stating the reasons therefore
2. Submit to the governing bodies, the Plan adopted by MAPC on August 20, 2015 with a recommendation to **approve with amendments** (to include new and amended elements that may or may not reflect all or portions of the Plan changes recommended by the County and/or City)

KSA 12-747(b) states that if a planning commission fails to deliver its recommendation to the governing body following the planning commission’s next regular meeting after receipt of the governing body’s report, the governing body shall consider such course of inaction as a resubmission of the original recommendation.

KNEBEL suggested the Planning Commission hear from the public present and make a recommendation to the governing bodies about whether or not to amend the Plan.

DAILEY asked if the Commission sends the Plan back to the governing bodies, what vote is required.

KNEBEL said if the Planning Commission decides to amend the Plan a majority vote, or eight (8) affirmatives is required. He said once the governing bodies get the Plan back from the Planning Commission, since they have returned it to the Planning Commission for reconsideration, he said on second hearing they can make changes with a simple majority vote.

RAMSEY asked legal if he needed to declare ex-parte communication.

ROBERT PARNACOTT, ASSISTANT COUNTY COUNSELOR said it is not required; however, he may do so for the record.

RAMSEY declared that he had ex-parte communication and commented that he was sure other Commissioners had some also.

RICHARDSON asked if there is disagreement between the City and County; how does the decision get made.

KNEBEL said right now the City and County have adopted the identical Plan. He said that is not a statutory requirement. They could adopt plans that differ. He said that might be a logistical problem in terms of implementation, but it is a legal outcome. He said options available to the governing bodies include adopting what the Planning Commission recommends, making changes or keeping the current Plan in place. He asked if legal counsel had anything to add.

PARNACOTT said language that the County wants and the City does not could be shown and clearly identified as adopted only by the County. He said from a practical aspect the Plan is used for evaluation of Capital Improvement Plans, annexations and zoning cases. He said the difference between City and County versions may have impact on City versus County zoning cases in the future. He said having different Plans is allowed under the statute and it is up to the governing bodies to decide what they want their Plan to be.

GOOLSBY asked why are we here then.

PARNACOTT said the Planning Commission has a statutory obligation.

MCKAY asked why the sentence “it is imperative that this revenue stream remain” used in reference to the one cent sales tax.

KNEBEL said he had received the same feedback. He said perhaps some of the Advance Plans Committee members can explain why that was worded that way. He said he has heard it could be interpreted as keeping the funding formula the same.

MCKAY commented that the whole paragraph says we need it, we want it and it seems like a duplication of effort to him.

DENNIS commented that the Advance Plans Committee went through each of the recommended items. He said some things could have been articulated better, he doesn't disagree with that. He said the original draft was much longer than what is being presented to the Commission. He said the Committee took most of Commissioner Howell's recommendations into account. He said as long as he has been on the MAPC (eight years), they have complained about how out of date the Plan is. He said a lot of good people have spent thousands of hours putting together a Plan. He said they still need a Plan that fits both the City and County and that is what the Committee and others tried to do when developing the Plan. He commented that the Advance Plans Committee is made up of three (3) members appointed by the County Commission and three (3) members

appointed by the City council. He noted that most of the votes were 6-0 on suggested Plan changes. He said the Committee recognizes that there has to be a Plan and these are their recommendations on how to get a Plan out to the citizens in Wichita and Sedgwick County.

JEFF LONGWELL, MAYOR, CITY OF WICHITA, 7806 WEST 17TH STREET, WICHITA commented that Scott Knebel did a great job of framing where the City Council is on the issue. He said the Council's first preference is that they adopt the original Plan that was submitted to them by the Planning Commission with no changes. He said there are some items that the Advance Plans Committee looked at that are relatively innocuous but the one they have some heartburn over is the last sentence on Page 29 – "it is imperative that this revenue stream remain." He said they feel it can be interpreted too many different ways and some might take that as an implication that the formula doesn't change and that the stream remain exactly the way it is. He said the Council would encourage the Commission, at the very least, to strike that last sentence because they believe it is too vague and can be interpreted the wrong way. He said he heard the Commission say they don't want to be involved in funding, and if that is left in the Plan, it could be interpreted that they are suggesting that the revenue stream remain the same. He said the rest of the changes, the City Council could live with because they feel they are pretty innocuous.

WES GALYON, PRESIDENT, BUILDERS ASSOCIATION, 2017 NORTH GLENWOOD COURT, WICHITA said he and the Builders organization are supportive of what Mayor Longwell just said. He said the sales tax distribution is set by State Statute and he does not believe it belongs in the Plan document. He said if the Commission decides collectively to leave it in the Plan, then please remove the last sentence to avoid conflicts on interpretation. He said removing that sentence would provide flexibility in looking at the sales tax or some variation of the sales tax.

GALYON mentioned the comment about privatizing the transit system. He said there has been discussion for a long time about funding the transit system. He said he thinks it needs to be made clear that it could be private or public. He concluded by referencing the word "premier" used in the document. He said that word means totally different things to different people and is subjective. He suggested using a term that can be tied to a scale so it can be quantified.

TODD asked if the word could be left out.

GALYON said he could send over some suggestions. He said he felt there was a better way to describe what the Plan is trying to achieve, something that can be tied to some sort of process or formula.

CHARLES PEASTER, 9453 NORTH 135TH STREET, WEST, SEDGWICK commented that the Advance Plans Committee vote on Item 29 was 5-1. He said State Statute sets who gets what portion of the sales tax revenue. He asked if it was the City's intent to change that revenue flow. He said he thinks the wording makes it pretty plain to him, he doesn't see where it is ambiguous. He said maybe the six (6) members of the Advance Plans Committee can answer his question.

MAYOR LONGWELL said he would like to answer that question.

CHAIR NEUGENT said that would not be part of the public hearing comment but he could respond to the question.

MAYOR LONGWELL said the City is going to pursue those opportunities. He said three (3) counties in the State of Kansas have made that change at the State level. He said the last County, Johnson, made that change to the State funding formula because their population changed dramatically, much like Wichita and Sedgwick County's populations have changed dramatically since 1983 when the formula was first adopted. He said Johnson County found that the formula did not work because of the shift in population. He said the City may very well address the State Legislature and that is why they believe the last sentence needs to be deleted. He said the City wants the same opportunity to go to the State Legislature and get an exemption from that formula mix.

STAN SKELTON, BREG CO-CHAIR, DATA SERVICES AND IT CLUSTER, 3718 NORTH ROCK ROAD, WICHITA referred to correspondence he e-mailed to Commissioners regarding the importance of the broadband initiative and said he was present to answer any questions.

TODD asked if he wanted the strategy included in the Plan.

SKELTON he said he was providing the Commissioners input as to why the strategy should stay in the Plan as recommended by the Advance Plans Committee.

MCKAY asked if the last sentence regarding the sales tax was left in would it impair either governing body from making changes.

CHAIR NEUGENT asked for legal interpretation.

PARNACOTT commented that the County Commission has spoken as to what they want. He said the Planning Commission's role is to consider whether they want to go with that recommendation, the original language, follow the Advance Plans recommendation or go with an alternative recommendation. He said the majority of the County Commission is interested in keeping the language they submitted to the Planning Commission.

JEFF VANZANDT, ASSISTANT CITY ATTORNEY he said from the City's perspective they totally agree with the Mayor's position that any reference to how the sales tax is distributed might create confusion and should be handled at the State level.

MAYOR LONGWELL reiterated that the Council's first recommendation is to pass the Plan originally adopted by the Planning Commission unanimously. He said the second fallback position is that the language regarding the sales tax needs to be changed. He said they do not agree with the language that the Advance Plans Committee is recommending.

DENNIS explained that the reason the Advance Plans Committee left that language in is because there was a referendum not too long ago on a one cent sales tax and they did not want to see the sales tax that they have now eliminated.

MOTION: To approve the Plan with the recommendation of the Advance Plans Committee and take up the language on page 29 separately.

TODD moved, seconded by **DAILEY**.

CHAIR NEUGENT clarified that the language on page 29 would be taken as a separate motion.

DENNIS asked about the use of the word premier.

TODD asked Commissioner Dennis if he had a suggestion because he didn't have a problem with the word. He said ambiguous words are part of the process.

DENNIS asked if the Plan could be approved with the provision of editing that one word.

The **MOTION WAS AMENDED** subject to changing the word "premier".

JOHNSON asked for clarification of the interpretation of broadband and if it meant public private cooperation.

KNEBEL commented that the Advance Plans Committee didn't recommend that any reference to broadband be changed. He quoted from page 31 of the Plan that said ".....support public and/or private" broadband infrastructure....."

SUBSTITUTE MOTION: To approve the Plan with the recommendation of the Advance Plans Committee, including the recommendation on Page 29 except to strike the last sentence regarding the revenue stream remaining the same.

FOSTER moved, **JOHNSON** seconded the motion.

FOSTER added that he wanted to thank the Advance Plans Committee for making the Commission's job much easier. He said he appreciates their efforts.

RICHARDSON asked about dropping the word premier.

FOSTER commented that when he first read it he thought the sentence didn't read properly without an adjective or descriptive terms. He said he was comfortable leaving the word out.

The **SUBSTITUTE MOTION WAS AMENDED** to delete the word premier.

JOHNSON said he would hate to take it out but he would go along with the amendment.

TODD said he believed the language on page 29 should be considered separately so he would not be supporting the motion.

GOOLSBY commented that some of the members of the Commission served on the Plan Committee since its inception. He said there has been more than 100 hours of public input in meetings over several years to craft the Plan. He said the Plan is a great compromise and is not exactly the Plan he wants but reflects the community as a whole. He said he feels it is inappropriate for governing bodies to make changes when several members of the governing body participated in the meetings. He said he would be voting in favor of the substitute motion.

QUESTION CALLED to vote on the **SUBSTITUTE MOTION** and it carried (11-2). **ELLISON** and **TODD** – No.

The **SUBSTITUTE MOTION** carried (10-3). **DAILEY, ELLISON** and **TODD** – No.

NON-PUBLIC HEARING ITEMS

9. **Case No.: DER2015-00009** - Request for an Amendment to Section IV-E.7. of the Wichita-Sedgwick County Unified Zoning Code, as amended, regarding minimum lot size and separation requirements for rural home occupations.

Background: On September 6, 2012, the MAPC recommended amendments to the rural home occupation regulations. The recommendations included reducing the minimum lot size for a rural home occupation to two acres and reducing the required separation distance between a rural home occupation and a residence to 40 feet.

On November 21, 2012, the County Commission returned the recommended amendments to the MAPC for reconsideration of the minimum lot size and separation requirements. On March 21, 2013, the MAPC reconsidered the amendments to the rural home occupation regulations and recommended a minimum lot size of five acres and a separation requirement of 120 feet. On April 17, 2013, the County Commission approved the MAPC recommended amendments to the rural home occupation regulations.

During the review process, some County Commissioners expressed support for the minimum lot size and separation requirements originally recommended by MAPC. To that end, Chairman Ranzau has asked to staff to place an item on the MAPC agenda to consider amendments that would reduce the minimum lot size and separation requirements for rural home occupations.

The proposed amendments (attached) would reduce the minimum lot size for a rural home occupation from five acres to two acres by right and from two acres to 20,000 square feet with a Conditional Use. The proposed amendments also would reduce the required separation distance between a rural home occupation and a residence from 120 to 75 feet.

Recommended Action: Set a public hearing for December 17, 2015, to consider the proposed amendments to Section IV-E.7. If desired, direct the Advanced Plans Committee to consider the proposed amendments on December 3, 2015, and prepare a recommendation for the MAPC.

Attachments: Proposed Amendments to Section IV-E.7.

SCOTT KNEBEL, Planning Staff presented Staff Report.

MILLER STEVENS asked if there was a particular case or issue that has brought this to the forefront.

KNEBEL said staff is not aware of any particular case where someone applied to do a rural home occupation on a lot smaller than five acres and was turned down. He added that he did not believe anyone has applied for a conditional use to do a rural home occupation on a lot smaller than five acres either.

MOTION: To set a public hearing for December 17, 2015 and have input from the Advance Plans Committee.

JOHNSON moved, **DENNIS** seconded the motion, and it carried (13-0).

FOSTER said the Planning Commission has no clue why this is happening. He said when they are asked to make a change, they want to know why they are making the change. He said there is no background or reason given for doing this. He said he does not support change for change sake.

KNEBEL replied that staff is bringing the issue to the Planning Commission at the suggestion of the Chairman of the County Commission. He said there was a significant amount of discussion about what is the appropriate lot size when the previous amendment on this issue went before the County Commission. He said the Planning Commission originally recommended two acres and the County Commission increased it to five acres.

CHAIR NEUGENT asked County Counsel if they had any comments.

ROBERT PARNACOTT, ASSISTANT COUNTY COUNSELOR said this was discussed at a staff meeting. He said Chair Ranzau thought the proposed amendments might be a way to encourage more economic development and use of properties in the unincorporated areas of Sedgwick County. He said this would reduce some of the regulatory requirements on someone who doesn't have five acres. He said this issue came up during a larger discussion on agri-tourism. He said additional amendments may be coming to the Commission concerning agri-tourism.

10. Other Matters/Adjournment

10-1. Discussion of Possible Workshop Dates

DIRECTOR MILLER asked if the Commission wanted to add the Workshop onto a Planning Commission that doesn't have a long agenda or did they want to do the workshop on a separate day altogether.

CHAIR NEUGENT noted that the Commission would like Mr. Parnacott to participate.

PARNACOTT announced that he will be retiring March 25, 2016.

JOHNSON suggested having the Workshop after a regular Planning Commission hearing sometime in January, 2016.

RICHARDSON requested staff send out an e-mail asking for suggestions for the workshop agenda.

MCKAY asked if there is a burning item that needs to be covered. He missed the discussion on having a workshop.

CHAIR NEUGENT commented that the Commission has a lot of new members. She said the Workshop would be based on input from Commissioners as well as what staff feels is appropriate.

DIRECTOR MILLER mentioned ethics and conflicts of interest as some topics.

PARNACOTT suggested the DAB issue also be discussed.

The Metropolitan Area Planning Commission adjourned at 3:25 p.m.

State of Kansas)
Sedgwick County) ss

I, W. Dale Miller, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2015.

Dale Miller, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)